



574/10

भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 35]
No. 35]

नई दिल्ली, शनिवार, सितम्बर 1, 1990/भाद्रपद 10, 1912
NEW DELHI, SATURDAY, SEPTEMBER 1, 1990/BIADRA 10, 1912

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as
a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-Section (ii)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सार्वजनिक आदेश और अधिसूचनाएँ
Statutory Orders and Notifications Issued by the Ministries of the Government of India other than
the Ministry of Defence)

गृह मंत्रालय

नई दिल्ली, 13 अगस्त, 1990

का.आ. 2263.—केन्द्रीय सरकार, राजभाषा (संघ) के
शासकीय प्रयोजनों के लिए प्रयोग नियम, 1976 के नियम,
10 के उप विभाग (4) के अनुसूचन में समन्वय निदेशालय
(पुलिस बेनार) गृह मंत्रालय को, जिसमें 80 प्रतिशत
कर्मचारियों ने हिन्दी का कार्यवाहक ज्ञान प्राप्त कर लिया
है, अधिसूचित करती है।

[सं. 12017/1/89-हिन्दी]

बी. एस. सहगल, उप सचिव

MINISTRY OF HOME AFFAIRS

New Delhi, the 13th August, 1990

S.O. 2263—In pursuance of Sub-Rule (4) of Rule 10
of the Official Language (Use for official purposes of the
Union), Rules, 1976, the Central Government hereby notifies
the Directorate of Coordination (Police Wireless), Ministry
of Home Affairs where 80 per cent staff has acquired work-
ing knowledge of Hindi

[No. 12017/1/89-Hind]

B. S. SEHGAL, Dy. Secy.

व्यक्तिगत, लोक शिकायत और पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 10 अगस्त, 1990

का.पा. 2264.—कार्मिक, लोक शिकायत तथा पेंशन
मंत्रालय, कार्मिक और प्रशिक्षण विभाग की अधिसूचना संख्या
225/8/89-ग.वी.डी.-II दिनांक 2 नवम्बर, 1989 जो
भारत के राजपत्र के भाग-II, खण्ड 3, उपखण्ड (ii) में
तारीख 18 नवम्बर, 89 को का.का. संख्या 2393
के अन्तर्गत प्रकाशित की गई थी, को एतद्वारा रद्द किया
जाता है।

[संख्या 225/8/89-ग.वी.डी.-II]

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 10th August, 1990

S.O. 2264.- The Ministry of Personnel, Public Grievances
and Pensions Department of Personnel and Training Notifi-
cation No. 225/8/89-AVD. II dated 2nd November, 1989
published in the Gazette of India Part II, Section 3, Sub-
section (ii) dated 18th November, 1989 under S.O. No. 2893
is hereby cancelled.

[No. 225/8/89-AVD. II]

का.आ. 2265.—कर्मिक, लोक शिकायत तथा पेंशन मंत्रालय, कर्मिक और प्रशिक्षण विभाग की अधिसूचना संख्या 225/4/89-ए.वी.डी.-II दिनांक 7 जुलाई, 1989 जो भारत के राजपत्र के भाग-II, खण्ड 3, उपखण्ड (ii) में तारीख 5 अगस्त, 1989 को सा.आ. संख्या 1751 के अन्तर्गत प्रकाशित की गई थी, को एतद्वारा रद्द किया जाता है।

[संख्या 225/4/89-ए.वी.डी.-II]

S.O. 2265.—The Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training Notification No. 225/4/89-AVD. II dated 7th July, 1989 published in the Gazette of India, Part II, Section 3, sub-section (ii) dated 5th August, 1989 under S.O. No. 1751 is hereby cancelled.

[No. 225/4/89-AVD. II]

का.आ. 2266.—कर्मिक, लोक शिकायत तथा पेंशन मंत्रालय, कर्मिक और प्रशिक्षण विभाग की अधिसूचना संख्या 225/26/89-ए.वी.डी.-II दिनांक 1 जनवरी, 1990 जो भारत के राजपत्र के भाग-II, खण्ड 3, उपखण्ड (ii) में तारीख 20 जनवरी, 1990 को सा.आ. सं. 145 के अन्तर्गत प्रकाशित की गई थी, को एतद्वारा रद्द किया जाता है।

[संख्या 225/26/89-ए.वी.डी.-II]

S.O. 2266.—The Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training Notification No. 225/26/89-AVD. II dated 1st January, 1990 published in the Gazette of India Part II, Section 3, sub-section (ii) dated 20th January, 1990 under S.O. No. 145 is hereby cancelled.

[No. 225/26/89-AVD. II]

का.आ. 2267.—कर्मिक, लोक शिकायत तथा पेंशन मंत्रालय, कर्मिक और प्रशिक्षण विभाग की अधिसूचना संख्या 225/11/88-ए.वी.डी.-II दिनांक 16 जून, 1988 जो भारत के राजपत्र के भाग-II, खण्ड 3, उपखण्ड (ii) में तारीख 2 जुलाई, 1988 को सा.आ. सं. 1963 के अन्तर्गत प्रकाशित की गई थी, को एतद्वारा रद्द किया जाता है।

[संख्या 225/11/88-ए.वी.डी.-II]

S.O. 2267.—The Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training Notification No. 225/11/88-AVD. II dated 16th June, 1988 published in the Gazette of India, Part II, Section 3, sub-section (ii) dated 2nd July, 1988 under S.O. No. 1963 is hereby cancelled.

[No. 225/11/88-AVD. II]

का.आ. 2268.—कर्मिक, लोक शिकायत तथा पेंशन मंत्रालय, कर्मिक और प्रशिक्षण विभाग की अधिसूचना संख्या 225/22/88-ए.वी.डी.-II दिनांक 16 सितम्बर, 88 जो भारत के राजपत्र के भाग-II, खण्ड 3, उपखण्ड (ii) में तारीख 8 अक्तूबर, 1988 को सा.आ. संख्या 2976 के अन्तर्गत प्रकाशित की गई थी, को एतद्वारा रद्द किया जाता है।

[संख्या 225/22/88-ए.वी.डी.-II]

S.O. 2268.—The Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training Notification No. 225/20/88-AVD. II dated 16th September, 1988 published in the Gazette of India, Part II, Section 3, sub-section (ii) dated 8th October, 1988 under S.O. No. 2976 is hereby cancelled.

[No. 225/22/88-AVD. II]

का.आ. 2269.—कर्मिक, लोक शिकायत तथा पेंशन मंत्रालय, कर्मिक और प्रशिक्षण विभाग की अधिसूचना संख्या 225/30/89-ए.वी.डी.-II दिनांक 2 फरवरी, 1989 जो भारत के राजपत्र के भाग-II, खण्ड 3, उपखण्ड (ii) में तारीख 3 मार्च, 1990 को सा.आ. संख्या 503 के अन्तर्गत प्रकाशित की गई थी, को एतद्वारा रद्द किया जाता है।

[संख्या 225/30/89-ए.वी.डी.-II]

S.O. 2269.—The Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training Notification No. 225/30/89-AVD. II dated 19th September, 1989 published in the Gazette of India Part II, Section 3, sub-section (ii) dated 3rd March, 1990 under S.O. No. 503 is hereby cancelled.

[No. 225/30/89-AVD. II]

का.आ. 2270.—कर्मिक, लोक शिकायत तथा पेंशन मंत्रालय, कर्मिक और प्रशिक्षण विभाग की अधिसूचना संख्या 225/1/89-ए.वी.डी.-II दिनांक 7 जुलाई, 1989 जो भारत के राजपत्र के भाग-II, खण्ड 3, उपखण्ड (ii) में तारीख 5 अगस्त, 1989 को सा.आ. संख्या 1750 के अन्तर्गत प्रकाशित की गई थी, को एतद्वारा रद्द किया जाता है।

[संख्या 225/1/89-ए.वी.डी.-II]

S.O. 2270.—The Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training Notification No. 225/1/89-AVD. II dated 7th July, 1989 published in the Gazette of India, Part II, Section 3, sub-section (ii) dated 5th August, 1989 under S.O. No. 1750 is hereby cancelled.

[No. 225/1/89-AVD. II]

का.आ. 2271.—कर्मिक, लोक शिकायत तथा पेंशन मंत्रालय, कर्मिक और प्रशिक्षण विभाग की अधिसूचना संख्या 225/2/84-ए.वी.डी.-II (ii) दिनांक 19 मार्च, 1984 जो भारत के राजपत्र के भाग-II, खण्ड 3, उपखण्ड (ii) में तारीख 31 मार्च, 1984 को सा.आ. संख्या 1020 के अन्तर्गत प्रकाशित की गई थी, को एतद्वारा रद्द किया जाता है।

[सं. 225/2/84-ए.वी.डी.-II]

S.O. 2271.—The Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training Notification No. 225/2/84-AVD. II (ii) dated 19th March, 1984 published in the Gazette of India, Part II, Section 3, sub-section (ii) dated 31st March, 1984 under S.O. No. 1020 is hereby cancelled.

[No. 225/2/84-AVD. II (ii)]

का.आ. 2272.—कर्मिक, लोक शिकायत तथा पेंशन मंत्रालय, कर्मिक और प्रशिक्षण विभाग की अधिसूचना संख्या 225/13/80-ए.वी.डी.-II दिनांक 19-12-1989 जो भारत

के राजपत्र के भाग-II, खण्ड 3, उपखण्ड (ii) में तारीख 13-1-1990 को सा.आ.संख्या 73 के अन्तर्गत प्रकाशित की गई थी, को एतद्वारा रद्द किया जाता है।

[संख्या 225/13/89-ए.वी.डी.-II]

S.O. 2272.—The Ministry of Personnel, Public Grievances and Pensions Department of Personnel and Training Notification No. 225/13/89-AVD. II dated 19th December, 1989 published in the Gazette of India Part II Section 3, sub-section (ii) dated 13th January, 1990 under S.O. No. 73 is hereby cancelled.

[No. 225/13/89-AVD. II]

का.आ. 2273.—कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय, कार्मिक और प्रशिक्षण विभाग की अधिसूचना संख्या 225/41/86-ए.वी.डी.-II दिनांक 16-4-1987 जो भारत के राजपत्र के भाग II, खण्ड 3, उपखण्ड (ii) में तारीख 2 मई, 1987 को सा.आ. संख्या 1109 के अन्तर्गत प्रकाशित की गई थी, को एतद्वारा रद्द किया जाता है।

[संख्या 225/41/86-ए.वी.डी.-II]

S.O. 2273.—The Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) Notification No. 225/41/86-AVD. II dated 16th April, 1987 published in the Gazette of India Part II, Section 3, sub-section (ii) dated 2nd May, 1987 under S.O. No. 1190 is hereby cancelled.

[No. 225/41/86-AVD. II]

का.आ. 2274.—कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय, कार्मिक और प्रशिक्षण विभाग की अधिसूचना संख्या 225/4/88-ए.वी.डी.-II दिनांक 7 नवम्बर, 1988 जो भारत के राजपत्र के भाग-II, खण्ड 3, उपखण्ड (ii) में तारीख 26 नवम्बर, 88 को सा.आ. संख्या 3468 के अन्तर्गत प्रकाशित की गई थी, को एतद्वारा रद्द किया जाता है।

[संख्या 225/4/88-ए.वी.डी.-II]

S.O. 2274.—The Ministry of Personnel, Public Grievances and Pensions Department of Personnel and Training Notification No. 225/4/88-AVD. II dated 7th November, 1988 published in the Gazette of India Part II, Section 3, sub-section (ii) dated 26th November, 1988 under S.O. No. 3468 is hereby cancelled.

[No. 225/4/88-AVD. II]

का.आ. 2275.—कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय, कार्मिक और प्रशिक्षण विभाग की अधिसूचना संख्या 225/9/89-ए.वी.डी.-II दिनांक 4 सितम्बर, 89 जो भारत के राजपत्र के भाग-II, खण्ड 3, उपखण्ड (ii) में तारीख 23 सितम्बर, 89 को सा.आ. संख्या 2299 के अन्तर्गत प्रकाशित की गई थी, को एतद्वारा रद्द किया जाता है।

[संख्या 225/9/89-ए.वी.डी.-II]

S.O. 2275.—The Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training Notification No. 225/9/89-AVD. II dated 4th September, 1989 published in the Gazette of India, Part II, Section 3, sub-section (ii) dated 23rd September, 1989 under S.O. No. 2299 is hereby cancelled.

[No. 225/9/89-AVD. II]

का.आ. 2276.—कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय, कार्मिक और प्रशिक्षण विभाग की अधिसूचना संख्या 225/20/88-ए.वी.डी.-II दिनांक 19 सितम्बर, 88 जो भारत के राजपत्र के भाग-II, खण्ड 3, उपखण्ड (ii) में तारीख 8 अक्तूबर, 88 को सा.आ. संख्या 2977 के अन्तर्गत प्रकाशित की गई थी, को एतद्वारा रद्द किया जाता है।

[संख्या 225/20/88-ए.वी.डी.-II]

S.O. 2276.—The Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training Notification No. 225/20/88-AVD-II dated 19th September, 1988 published in the Gazette of India Part II, Section 3, sub-section (ii) dated 8th October, 1988 under S.O. No. 2977 is hereby cancelled.

[No. 225/20/88-AVD. II]

का.आ. 2287.—कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय, कार्मिक और प्रशिक्षण विभाग की अधिसूचना संख्या 225/25/88-ए.वी.डी.-II दिनांक 19 सितम्बर, 1988 जो भारत के राजपत्र के भाग II खण्ड 3, उपखण्ड (ii) में तारीख 8 अक्तूबर, 1988 को सा.आ. संख्या 2978 के अन्तर्गत प्रकाशित की गई थी, को रद्द किया जाता है।

[संख्या 225/25/88-ए.वी.डी.-II]

S.O. 2277.—The Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training Notification No. 225/20/88-AVD. II dated 19th September, 1988 published in the Gazette of India Part II, Section 3, sub-section (ii) dated 8th October, 1988 under S.O. No. 2978 is hereby cancelled.

[No. 225/25/88-AVD. II]

का.आ. 2278.—कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय, कार्मिक तथा प्रशिक्षण विभाग की अधिसूचना संख्या 225/32/88-ए.वी.डी.-II दिनांक 3 फरवरी, 1989 जो भारत के राजपत्र के भाग-II, खण्ड 3, उपखण्ड (ii) में तारीख 18 मार्च, 1989 को सा.आ. संख्या 515 के अन्तर्गत प्रकाशित की गई थी, को एतद्वारा रद्द किया जाता है।

[संख्या 225/32/88-ए.वी.डी.-II]

S.O. 2278.—The Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training Notification No. 225/32/88-AVD. II dated 3rd February, 1989, published in the Gazette of India, Part II, Section 3, sub-section (ii) dated 18th March, 1989, under S.O. No. 515 is hereby cancelled.

[No. 225/32/88-AVD. II]

नई दिल्ली, 13 अगस्त, 1990

का.आ. 2279.—केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा सर्वश्री परमेश्वर दयाल तथा धार.बी. खरे, अधिवक्ता, लखनऊ को मजिस्ट्रेट के न्यायालय में सभी कारवाइयों में उपस्थित होने, सेशन न्यायालय में परीक्षण के संचालन और

के.अ. ब्यूरो/वि.पु., स्थापना द्वारा अन्वेषित आर. सी. 2 एस(1)/88-एम. आई. यू.-5 के संबंध में तथा उससे उद्भूत सभी कार्रवाईयों में पुनरीक्षण और अपील न्यायालयों में उपस्थित होने के प्रयोजन के लिए विशेष लोक अभियोजक नियुक्त करती है।

[संख्या 225/25/88-ए.वी.डी.-II]

New Delhi, the 13th August, 1990

S.O. 2279.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974) the Central Government hereby appoints Sarvashri Parmeshwar Dayal and R. B. Khare, Advocates, Lucknow, as Special Public Prosecutors for the purpose of appearing in all proceedings in the Magistrate's Court, to conduct trial in the court of the Sessions and to appear in all proceedings in the Revisional and Appellate Courts in relation to and arising out of RC 2(S)/88-SIU. V investigated by the Central Bureau of Investigation (Special Police Establishment), New Delhi.

[No. 225/25/88-AVD. II]

का.आ. 2280.—केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा श्री एस.जी. सानंत, अधिवक्ता, बम्बई को मजिस्ट्रेट के न्यायालय में सभी कार्रवाईयों में उपस्थित होने, सेशन न्यायालय में परीक्षण के संचालन और केन्द्रीय अन्वेषण ब्यूरो/विशेष पुलिस स्थापना द्वारा अन्वेषित आर.सी. 2(एस)/88-एस.आई.यू.-5 के संबंध में तथा उससे उद्भूत सभी कार्रवाईयों में पुनरीक्षण और अपील न्यायालयों में उपस्थित होने के प्रयोजन के लिए विशेष लोक अभियोजन नियुक्त करती है।

[संख्या 225/32/88-ए.वी.डी.-II]

जि. सीतारामन अव्वर सचिव

S.O. 2280.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974) the Central Government hereby appoints Shri S. G. Samant, Advocate, Bombay, as Special Public Prosecutor for the purpose of appearing in all proceedings in Magistrate's Court, to conduct trial in the Court of the Sessions and to appear in all proceedings in the Revisional and Appellate Courts in relation to and arising out of RC. 2(S)/88-SIU. V investigated by the Central Bureau of Investigation (Special Police Establishment), New Delhi.

[No. 225/32/88-AVD. II]

G. SITARAMAN, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

महानिदेशक (आयकर छूट) का कार्यालय

कलकत्ता, 5 जुलाई, 1990

(आयकर)

का.आ. 2281.—सर्वसाधारण की सूचना के लिए एतद्वारा यह अधिसूचित किया जाता है कि निम्नलिखित संगठन को, आयकर अधिनियम, 1961 की धारा 35(पैतीम/एक/दो)

की उपधारा (1) के खण्ड (ii) के लिए, सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग की सहमति से, आयकर नियम, 1962 के नियम 6 के अधीन विहित प्राधिकारी अर्थात् महानिदेशक (आयकर छूट) द्वारा निम्नलिखित शर्तों पर "संघ" प्रवर्ग के अधीन अनुमोदित किया गया है।

- (1) संगठन वैज्ञानिक अनुसंधान के लिए प्राप्त धन के लिए एक अलग लेखा रखेगा।
- (2) यह अपने वैज्ञानिक अनुसंधान संबंधी कार्यकलापों का एक वार्षिक विवरण प्रत्येक वित्तीय वर्ष के लिए, प्रत्येक वर्ष की 31 मई तक, सचिव, वैज्ञानिक व औद्योगिक अनुसंधान विभाग, औद्योगिक भवन, न्यू महरौली रोड, नई दिल्ली-110016, को भेजेगा।
- (3) यह प्रत्येक वर्ष की 30 जून तक, लेखा-परीक्षित वार्षिक लेखों की एक प्रति अपनी व्यय, प्राप्तियों एवं वनवारियों के विवरण सहित, (क) महानिदेशक (आयकर छूट) सचिव, वैज्ञानिक व औद्योगिक अनुसंधान विभाग, और (ग) आयकर आयुक्त/आयकर निदेशक (छूट) जिनके क्षेत्राधिकार में पड़ता है, को प्रस्तुत करेगा।

संगठन का नाम

बैक डवलपमेंट रिसर्च फाउण्डेशन कामधेनू, सेनापति भापट मार्ग, पुणे-411016।

यह अधिसूचना दिनांक 1-4-90 से 1-2-92 तक की अवधि के लिए प्रभावी है।

टिप्पणी: संगठन को अनुमोदन की अवधि बढ़ाने के लिए अनुमोदन की समाप्ति के तीन माह पूर्व आयकर आयुक्त/आयकर निदेशक (छूट) जिनके क्षेत्राधिकार में संगठन पड़ता है, के माध्यम से आयकर महानिदेशक (छूट), कलकत्ता को तीन प्रतियों में आवेदन करने के लिए सूझाव दिया जाता है। विशेष मामलों में, जहाँ अनुमोदित आदेश उपर्युक्त तीन माह की समाप्ति पर अथवा उक्त अवधि की समाप्ति के ठीक पूर्व प्राप्त हुआ हो, संगठन अनुमोदित आदेश प्राप्त करने के पश्चात् यथाशीघ्र अनुमोदन की अवधि बढ़ाने के लिए आवेदन करें। इस अनुमोदन की अवधि बढ़ाने के सम्बन्ध में किए गए आवेदन-पत्र की 6 प्रतियाँ सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को प्रस्तुत करना है।

[सं. 225/फा.सं.जी./एम-57/कल./35/(i)(ii)/89-आ. कर(छूट)]

MINISTRY OF FINANCE

(Department of Revenue)

(OFFICE OF THE DIRECTOR GENERAL OF INCOME TAX (EXEMPTIONS))

Calcutta, the 5th July, 1990

(INCOME TAX)

S.O. 2281.—It is hereby notified for general information that the organisation mentioned below has been approved by the Prescribed Authority under Rule 6 of the Income-tax

Rules, 1962, i.e., the Director General of Income-tax (Exemptions) in concurrence with the Secretary, Department of Scientific and Industrial Research for the purposes of clause (ii) of Sub-section (1) of Section 35 (Thirty Five/one/two) of the Income-tax Act, 1961 under the category "Association" subject to the following conditions :

- (i) The organisation will maintain a separate account of the sums received by it for Scientific Research;
- (ii) It will furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific and Industrial Research, Technology Bhawan, New Mehrauli Road, New Delhi-110016 for every financial year by 31st May of each year; and
- (iii) It will submit to the (a) Director General of Income-tax (Exemptions), (b) Secretary, Department of Scientific and Industrial Research and (c) Commissioner of Income-tax/Director of Income-tax (Exemptions) having jurisdiction over the organisation, by the 30th June each year a copy of its audited annual accounts showing its income and expenditure, and its assets liabilities.

NAME OF THE ORGANISATION

BAIF Development Research Foundation,
Kamdhenu, Senapati Bapat Marg,
Pune-411016.

This Notification is effective for the period from 1-4-1990 to 31-3-1992.

NOTE :

The organisation is advised to apply (in triplicate) for of Income-tax (Exemptions), Calcutta through the Commissioner of Income-tax/the Director of Income-tax (Exemptions) having jurisdiction over the organisation, three months before the expiry of the approval. In exceptional cases where the order granting approval is received after the expiry of the period of the three months aforesaid or shortly before the expiry of the said period, the organisation may make an application for extension of approval as soon as possible after the receipt of the order of approval. Six copies of the application for extension of approval should be sent directly to the Secretary, Department of Scientific and Industrial Research.

[No. 225/F. No. DG/M-57/Cal./35(1)(ii)/89-IT(E)]

कलकत्ता, 6 जुलाई, 1990

(आयकर)

का.आ. 2282—सर्वसाधारण की सूचना के लिये एतद्वारा यह अधिसूचित किया जाता है कि निम्नलिखित संगठन को, आयकर अधिनियम 1961 की धारा 35 (पैंतीस/एक/दो) की धारा (1) के खण्ड (2) के लिये, सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग की सहमति से, आयकर नियम, 1962 के नियम 6 के अधीन विहित प्राधिकारी अर्थात् महानिदेशक (आयकर छूट) द्वारा निम्नलिखित शर्तों पर "संघ" प्रवर्ग के अधीन अनुमोदित किया गया है।

- (1) संगठन वैज्ञानिक अनुसंधान के लिये प्राप्त धन के लिये एक अलग लेखा रखेगा।
- (2) यह अपने वैज्ञानिक अनुसंधान संबंधी कार्यकलापों का एक वार्षिक विवरण प्रत्येक वित्तीय वर्ष

के लिये, प्रत्येक वर्ष की 31 मई तक, सचिव, वैज्ञानिक व औद्योगिक अनुसंधान विभाग, औद्योगिक भवन, न्यू मेहरौली रोड, नई दिल्ली-110016 को भेजेगा।

- (3) यह प्रत्येक वर्ष की 30 जून तक, लेखा परीक्षित वार्षिक लेखों की एक प्रति अपनी व्यय, आयस्तियों एवं वेनवारियों के विवरण सहित, (क) महानिदेशक (आयकर छूट) (ख) सचिव, वैज्ञानिक व औद्योगिक अनुसंधान विभाग, और (ग) आयकर आयुक्त/आयकर निदेशक (छूट) जिनके क्षेत्राधिकार में पड़ता है, को प्रस्तुत करेगा।

संगठन का नाम

सोसायटी फार इण्डियन इन्स्टीट्यूट आफ हेल्थ मैनेज-
मेंट रिसर्च

सी-105, लाल कोठी स्कीम, जयपुर-302015
(राजस्थान)

यह अधिसूचना दिनांक 1-4-1990 से 31-3-92 तक की अवधि के लिये प्रभावी है।

टिप्पणी : संगठन को अनुमोदन की अवधि बढ़ाने के लिये अनुमोदन की समाप्ति के तीन माह पूर्व आयकर आयुक्त/आयकर निदेशक (छूट), जिनके क्षेत्राधिकार में संगठन पड़ता है के माध्यम से आयकर महानिदेशक (छूट), कलकत्ता को तीन प्रतियों में आवेदन करने के लिये सुझाव दिया जाता है। विशेष मामलों में, जहाँ अनुमोदित आदेश उपर्युक्त तीन माह की समाप्ति पर अथवा उक्त अवधि की समाप्ति के ठीक पूर्व प्राप्त हुआ हो, संगठन अनुमोदित आदेश प्राप्त करने के पश्चात् यथाशीघ्र अनुमोदन की अवधि बढ़ाने के लिये आवेदन करें। इस अनुमोदन की अवधि बढ़ाने के संबंध में किये गये आवेदन-पत्र की 6 प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को प्रस्तुत करना है।

[सं. 226/फा.सं. डी.जी./आर-4/कल./35/(1)
(ii)/89-आ. कर (छूट)]

Calcutta, the 6th July, 1990

(INCOME TAX)

S.O. 2282.—It is hereby notified for general information that the organisation mentioned below has been approved by the Prescribed Authority under Rule 6 of the Income-tax Rules, 1962, i.e., the Director General of Income-tax (Exemptions) in concurrence with the Secretary, Department of Scientific and Industrial Research for the purposes of clause (ii) of Sub-section (1) of Section 35 (Thirty Five/One/Two) of the Income-tax Act, 1961 under the category "Association" subject to the following conditions :

- (i) The organisation will maintain a separate account of the sums received by it for Scientific Research;

- (ii) It will furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific and Industrial Research, Technology Bhawan, New Mehrauli Road, New Delhi-110016 for every financial year by 31st May of each year; and
- (iii) It will submit to the (a) Director General of Income-tax (Exemptions), (b) Secretary, Department of Scientific and Industrial Research and (c) Commissioner of Income-tax/Director of Income-tax (Exemptions) having jurisdiction over the organisation, by the 30th June each year a copy of its audited annual accounts showing its income and expenditure, and its assets liabilities.

NAME OF THE ORGANISATION

Society for Indian Institute of Health
Management Research,
C-105, Lal Kothi Scheme,
Jaipur-302015 (Rajasthan).

This Notification is effective for the period from 1-4-1990 to 31-3-1992.

NOTE :

The organisation is advised to apply (in triplicate) for further extension of the approval, to the Director General of Income-tax (Exemptions), Calcutta through the Commissioner of Income-tax/the Director of Income-tax (Exemptions) having jurisdiction over the organisation, three months before the expiry of the approval. In exceptional cases where the order granting approval is received after the expiry of the period of the three months aforesaid or shortly before the expiry of the said period, the organisation may make an application for extension of approval as soon as possible after the receipt of the order of approval. Six copies of the application for extension of approval should be sent directly to the Secretary, Department of Scientific and Industrial Research.

[No. 226/F. No. DG/R-4/Cal./35(1)(ii)|89-IT(E)]

कलकत्ता, 25 जुलाई, 1990

(आयकर)

का.आ.2283 सर्वसाधारण को सूचना के लिये
एतद्वारा यह अधिसूचित किया जाता है कि निम्नलिखित संगठन को, आयकर अधिनियम 1961 की धारा 35 (पैतीस/एक/दो) की उपधारा (1) के खण्ड (2) के लिये, सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग की सहमति से, आयकर नियम, 1962 के नियम 6 के अधीन विहित प्राधिकारी अर्थात् महानिदेशक (आयकर छूट) द्वारा निम्नलिखित शर्तों पर "संघ" प्रवर्ग के अधीन अनुमोदित किया गया है।

- (1) संगठन वैज्ञानिक अनुसंधान के लिये प्राप्त धन के लिये एक अलग लेखा रखेगा।
- (2) यह अपने वैज्ञानिक अनुसंधान संबंधी कार्यकलापों का एक वार्षिक विवरण प्रत्येक वित्तीय वर्ष के लिये, प्रत्येक वर्ष की 31 मई तक, सचिव, वैज्ञानिक व औद्योगिक अनुसंधान विभाग, औद्योगिक भवन, न्यू मेहरौली रोड, नई दिल्ली-110016, को भेजेगा।

- (3) यह प्रत्येक वर्ष की 30 जून, तक, विज्ञान-प्रतिष्ठा व वार्षिक लेखा की एक प्रति अपनी-अपनी, प्राप्ति के लिये एवं देनदारियों के विवरण सहित, (क) महानिदेशक (आयकर छूट) (ख) सचिव, वैज्ञानिक व औद्योगिक अनुसंधान विभाग, और (ग) आयकर आयुक्त/आयकर निदेशक (छूट) जिनके क्षेत्राधिकार में पड़ता है, को प्रस्तुत करेगा।

संगठन का नाम

एडवान्स सेंटर आफ फायोजेनिक रिसर्च कलकत्ता पो.
बाक्स नं. 17005, पो.आ.-जावबपुर यूनिवर्सिटी, कलकत्ता
700032

यह अधिसूचना दिनांक 1-4-90 से 31-3-92 तक की अवधि के लिये प्रभावी है।

टिप्पणी : संगठन को अनुमोदन की अवधि बढ़ाने के लिये अनुमोदन की समाप्ति के तीन माह पूर्व आयकर आयुक्त/आयकर निदेशक (छूट), जिनके क्षेत्राधिकार में संगठन पड़ता है, के माध्यम से आवेदन कर महानिदेशक (छूट), कलकत्ता को तीन प्रतियों में आवेदन करने के लिये सुझाव दिया जाता है। विशेष मामलों में, जहाँ अनुमोदित आदेश उपर्युक्त तीन माह की समाप्ति पर अथवा उक्त अवधि की समाप्ति के ठीक पूर्व प्राप्त हुआ हो, संगठन अनुमोदित आदेश प्राप्त करने के पश्चात् यथाशीघ्र अनुमोदन की अवधि बढ़ाने के लिये आवेदन करे। इस अनुमोदन की अवधि बढ़ाने के संबंध में किये गये आवेदन-पत्र प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को प्रस्तुत करना है।

[सं 227/फा.सं. बी.जी./बल्यू बी-18/कल./35

(1)(ii)/89-आ० कर (छूट)]

Calcutta, the 25th July, 1990

(INCOME TAX)

S.O. 2283.—It is hereby notified for general information that the organisation mentioned below has been approved by the Prescribed Authority under Rule 6 of the Income-tax Rules, 1962, i.e., the Director General of Income-tax (Exemptions) in concurrence with the Secretary, Department of Scientific and Industrial Research for the purposes of clause (ii) of Sub-section (1) of Section 35 (Thirty Five) One Two of the Income-tax Act, 1961 under the category "Association" subject to the following conditions :

- (i) The organisation will maintain a separate account of the sums received by it for Scientific Research;
- (ii) It will furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific and Industrial Research, Technology Bhawan, New Mehrauli Road, New Delhi-110016 for every financial year by 31st May of each year; and
- (iii) It will submit to the (a) Director General of Income-tax (Exemptions), (b) Secretary, Depart-

ment of Scientific and Industrial Research and (c) Commissioner of Income-tax/Director of Income-tax (Exemptions) having jurisdiction over the organisation, by the 30th June each year a copy of its audited annual accounts showing its income and expenditure, and its assets and liabilities.

NAME OF THE ORGANISATION

Advanced Centre of Cryogenic Research, Calcutta.
Post Box No. 17005, P.O. Jadavpur University,
Calcutta-700032

This Notification is effective for the period from 1-4-1990 to 31-3-1992.

NOTE :

The organisation is advised to apply (in triplicate) for further extension of the approval, to the Director General of Income-tax (Exemptions), Calcutta through the Commissioner of Income-tax/the Director of Income-tax (Exemptions) having jurisdiction over the organisation, three months before the expiry of the approval. In exceptional cases where the order granting approval is received after the expiry of the period of the three months aforesaid or shortly before the expiry of the said period, the organisation may make an application for extension of approval as soon as possible after the receipt of the order of approval. Six copies of the application for extension of approval should be sent directly to the Secretary, Department of Scientific and Industrial Research.

[No. 227/F. No. DG/WB-18/Cal.(1)(II)(89-IT(E))]

कलकत्ता, 27 जुलाई, 1990

(आयकर)

का.आ. 2284.—सर्वसाधारण की सूचना के लिये एतद्वारा यह अधिसूचित किया जाता है कि निम्नलिखित संगठन को, आयकर अधिनियम 1961 की धारा 35 (पेंतीस/एक/दो) की उपधारा (1) के खण्ड (ii) के लिये, सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग की सहमति से, आयकर नियम, 1962 के नियम 6 के अधीन विहित प्राधिकारी अर्थात् महानिदेशक (आयकर छूट) द्वारा निम्नलिखित शर्तों पर "विश्वविद्यालय" प्रवर्ग के अधीन अनुमोदित किया गया है।

- (1) संगठन वैज्ञानिक अनुसंधान के लिये प्राप्त धन के लिये एक अलग लेखा रखेगा।
- (2) यह अपने वैज्ञानिक अनुसंधान संबंधी कार्यकलापों का एक वार्षिक विवरण प्रत्येक वित्तीय वर्ष के लिये, प्रत्येक वर्ष की 31 मई तक, सचिव, वैज्ञानिक व औद्योगिक अनुसंधान विभाग, औद्योगिक भवन, न्यू मेहरौली रोड, नई दिल्ली-110016 को भेजेगा।
- (3) यह प्रत्येक वर्ष की 30 जून, तक, लेखा-परीक्षित वार्षिक लेखों की एक प्रति अपनी व्यय, आमनियों एवं देनदारियों के विवरण सहित, (क) महानिदेशक (आयकर छूट) (ख) सचिव, वैज्ञानिक व औद्योगिक अनुसंधान विभाग, और (ग) आयकर आयुक्त/आयकर निदेशक (छूट) जिनके क्षेत्राधिकार में पड़ता है, को प्रस्तुत करेगा।

संगठन का नाम

डा. एम.जी.आर. मेडिकल यूनिवर्सिटी, 52, ई.बी. को. रस्सत मलाई, विपेरी, मद्रास-600007

यह अधिसूचना दिनांक 5-04-90 से 31-3-92 तक की अवधि के लिये प्रभावी है।

टिप्पणी : संगठन को अनुमोदन की अवधि बढ़ाने के लिये अनुमोदन की समाप्ति के तीन माह पूर्व आयकर आयुक्त/आयकर निदेशक (छूट), जिनके क्षेत्राधिकार में संगठन पड़ता है, के माध्यम से आयकर महानिदेशक (छूट), कलकत्ता को तीन प्रतियों में आवेदन करने के लिये सुझाव दिया जाता है। विशेष मामलों में, जहाँ अनुमोदित आवेदन उपर्युक्त तीन माह की समाप्ति पर अवधि उक्त अवधि की समाप्ति के ठीक पूर्व प्राप्त हुआ हो, संगठन अनुमोदन आवेदन प्राप्त करने के पश्चात् यथाशीघ्र अनुमोदन की अवधि बढ़ाने के लिए आवेदन करे। इस अनुमोदन की अवधि बढ़ाने के सम्बन्ध में किए गए आवेदन-पत्र की 6 प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को प्रस्तुत करना है।

[सं. 228/फा.सं.डी.जी./टी.एन. 34/कल./35/(1)
(ii)/89-आयकर (छूट)]

Calcutta, the 27th July, 1990

(INCOME-TAX)

S.O. 2284.—It is hereby notified for general information that the organisation mentioned below has been approved by the Prescribed Authority under Rule 6 of the Income-tax Rules, 1962, i.e., the Director General of Income-tax (Exemptions) in concurrence with the Secretary, Department of Scientific & Industrial Research for the purposes of clause (ii) of Sub-section (1) of Section 35 (Thirty Five) of the Income-tax Act, 1961 under the category University subject to the following conditions :

- (i) The organisation will maintain a separate account of the sums received by it for Scientific Research;
- (ii) It will furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, "Technology Bhawan, New Mehrauli Road, New Delhi-110016 for every financial year by 31st May of each year; and
- (iii) It will submit to the (a) Director General of Income-tax (Exemptions), (b) Secretary, Department of Scientific & Industrial Research and (c) Commissioner of Income-tax/Director of Income-tax (Exemptions) having jurisdiction over the organisation, by the 30th June each year a copy of its audited annual accounts showing its income and expenditure, and its assets and liabilities.

NAME OF THE ORGANISATION

Dr. M. G. R. MEDICAL UNIVERSITY,
52 P. V. K. Sampath Salai, Vepery.
Madras-600007.

This Notification is effective for the period from 5-4-1990 to 31-3-1992.

NOTE.—The organisation is advised to apply (in triplicate) for further extension of the approval, to the Director General of Income-tax (Exemptions), Calcutta through the Commissioner of Income-tax/the Director of Income-tax (Exemptions) having jurisdiction over the organisation, three months before the expiry of the approval. In exceptional cases where the order granting approval is received after the expiry of the period of three months aforesaid or shortly before the expiry of the said period, the organisation may make an application for extension of approval as soon as possible after the receipt of the order of approval. Six copies of the application for extension of approval should be sent directly to the Secretary, Department of Scientific & Industrial Research.

[No. 228/F. No. DG/TN-34/Cal./35(1)(ii)/89-IT(E)]

कलकत्ता, 30 जुलाई, 1990

(आयकर)

का.आ. 2285.—संस्थाधारण की सूचना के लिये एतद्वारा यह अधिसूचित किया जाता है कि निम्नलिखित संगठन को, आयकर अधिनियम 1961 की धारा 35 (पैंतीस/एक/दो) की उपधारा (1) के खण्ड (ii) के लिये, सचिव वैज्ञानिक और औद्योगिक अनुसंधान विभाग की सहमति से, आयकर नियम, 1962 के नियम 6 के अधीन विहित प्राधिकारी अर्थात् महानिदेशक (आयकर छूट) द्वारा निम्नलिखित शर्तों पर "विश्वविद्यालय" प्रवर्ग के अधीन अनुमोदित किया गया है।

- (1) संगठन वैज्ञानिक अनुसंधान के लिये प्राप्त धन के लिये एक अलग लेखा रखेगा।
- (2) यह अपने वैज्ञानिक अनुसंधान संबंधी कार्यक्रमों का एक वार्षिक विवरण प्रत्येक वित्तीय वर्ष के लिये, प्रत्येक वर्ष की 31 मई तक, सचिव, वैज्ञानिक व औद्योगिक अनुसंधान विभाग, औद्योगिक भवन, न्यू मेहरोली रोड, नई दिल्ली-110016 को भेजेगा।
- (3) यह प्रत्येक वर्ष की 30 जून तक, लेखा-परीक्षित वार्षिक लेखों की एक प्रति अपनी-अपनी, आवृत्तियों एवं देनदारियों के विवरण सहित, (क) महानिदेशक (आयकर छूट) (ख) सचिव, वैज्ञानिक व औद्योगिक अनुसंधान विभाग, और (ग) आयकर आयुक्त/आयकर निदेशक (छूट) जिनके क्षेत्राधिकार में पड़ता है, को प्रस्तुत करेगा।

संगठन का नाम

श्रीमती नथीबाई दामोदर ठाकरसी वॉमेन यूनिवर्सिटी,
1, नथीबाई ठाकरसी रोड, नम्बर-400020

यह अधिसूचना दिनांक 1-4-89 से 31-3-91 तक की अवधि के लिये प्रभावी है।

टिप्पणी : संगठन को अनुमोदन की अवधि बढ़ाने के लिये अनुमोदन की समाप्ति के तीन माह पूर्व आयकर

आयुक्त/आयकर निदेशक (छूट), जिनके क्षेत्राधिकार में संगठन पड़ता है, के माध्यम से आयकर महा-निदेशक (छूट), कलकत्ता को तीन प्रतियों में आवेदन करने के लिये सुझाव दिया जाता है। विशेष मामलों में, जहाँ अनुमोदित आदेश उपर्युक्त तीन माह की समाप्ति पर अवकाश उका अवधि की समाप्ति से ठीक पूर्व प्राप्त हुआ हो, संगठन अनुमोदित आदेश प्राप्त करने के पश्चात् यथाशीघ्र अनुमोदन की अवधि बढ़ाने के लिए आवेदन करे। अनुमोदन की अवधि बढ़ाने के सम्बन्ध में किए गए आवेदन-पत्र की 6 प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को प्रस्तुत करना है।

[सं. 229/फा.सं.डी.जी./एम-97/कल./35/(1)
(ii)/90-आ.कर (छूट)]

Calcutta, the 30th July, 1990

(INCOME-TAX)

S.O. 2285.—It is hereby notified for general information that the organisation mentioned below has been approved by the Prescribed Authority under Rule 6 of the Income-tax Rules, 1962, i.e., the Director General of Income-tax (Exemptions) in concurrence with the Secretary, Department of Scientific & Industrial Research for the purposes of clause (ii) of Sub-section (1) of Section 35 (Thirty Five) one/two of the Income-tax Act, 1961 under the category University subject to the following conditions :

- (i) The organisation will maintain a separate account of the sums received by it for Scientific Research ;
- (ii) It will furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, Technology Bhawan, New Mehrauli Road, New Delhi-110016 for every financial year by 31st May of each year ; and
- (iii) It will submit to the (a) Director General of Income-tax (Exemptions), (b) Secretary, Department of Scientific & Industrial Research and (c) Commissioner of Income-tax/Director of Income-tax (Exemptions) having jurisdiction over the organisation, by the 30th June each year a copy of its audited annual accounts showing its income and expenditure, and its assets and liabilities.

NAME OF THE ORGANISATION

Shreemati Nathibai Damodar Thackersey women's University, 1, Nathibai Thackersey Road, Bombay-400020.

This Notification is effective for the period from 1-4-89 to 31-3-1991.

NOTE.—The organisation is advised to apply (in triplicate) for further extension of the approval, to the Director General of Income-tax (Exemptions), Calcutta through the Commissioner of Income-tax/the Director of Income-tax (Exemptions) having jurisdiction over the organisation, three months before the expiry of the approval. In exceptional cases where the order granting approval is received after the expiry of the period of three months aforesaid or shortly before the expiry of the said period, the organisation may make an application for extension of approval as soon as possible after the receipt of the order of approval. Six copies of the application for extension of approval should be sent directly to the Secretary, Department of Scientific & Industrial Research.

[No. 229/F. No. DG/M-97/Cal./35(1)(ii)/90-IT(E)]

(आयकर)

और औद्योगिक अनुसंधान विभाग की प्रस्तुत करना है।

[सं. 230 फ. सं. जी.जी./एम 91/कल. 35/(1)
(ii) 90 आ. कर (छूट)]

(INCOME-TAX)

का.आ. 2286:— सर्वसाधारण की सूचना के लिये एतद्वारा यह अधिसूचना किया जाता है कि निम्नलिखित संगठन को, आयकर अधिनियम, 1961 की धारा 35 (पैरीस/एक/तीन) की उपधारा (1) के खण्ड (ii) के लिये, सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग की सहमति से, आयकर नियम, 1962 के नियम 6 के अधीन विहित प्राधिकारी अर्थात् महानिदेशक (आयकर छूट) द्वारा निम्नलिखित शर्तों पर विश्व विद्यालय प्रवर्ग के अधीन अनुमोदित किया गया है।

- (1) संगठन वैज्ञानिक अनुसंधान के लिये प्राप्त धन के लिये एक अलग लेखा रखेगा।
- (2) यह अपने वैज्ञानिक अनुसंधान संबंधी कार्यकलापों का एक वार्षिक विवरण प्रत्येक वित्तिय वर्ष के लिये, प्रत्येक वर्ष की 31 मई, तक सचिव, वैज्ञानिक व औद्योगिक अनुसंधान विभाग, औद्योगिक भवन, न्यू मेहरोली रोड, नई दिल्ली-110016 को भेजेगा।
- (3) यह प्रत्येक वर्ष की 30 जून, तक लेखा परीक्षित वार्षिक लेखों की एक प्रति अपनी व्यय आस्तियों एवं देनदारियों के विवरण सहित, (क) महानिदेशक (आयकर छूट) (ख) सचिव, वैज्ञानिक व औद्योगिक अनुसंधान विभाग, और (ग) आयकर आयुक्त आयकर निदेशक (छूट) जिनके क्षेत्राधिकार में पड़ता है, को प्रस्तुत करेगा।

संगठन का नाम

यूनिवर्सिटी आफ बम्बई (यूनिवर्सिटी डिपार्टमेंट आफ महारत्नागांधी रोड, बम्बई-400032 केमिकल टेक्नोलॉजी)

यह अधिसूचना दिनांक 1-4-90 से 31-3-91 तक की अवधि के लिये प्रभावी है।

टिप्पणी : संगठन की अनुमोदन की अवधि बढ़ाने के लिये अनुमोदन की समाप्ति के तीन माह पूर्व आयकर आयुक्त आयकर निदेशक (छूट), जिनके क्षेत्राधिकार में संगठन पड़ता है, के माध्यम से आयकर महानिदेशक (छूट), कलकत्ता को तीन प्रतियों में आवेदन करने के लिये सुझाव दिया जाता है। विशेष मामलों में, जहां अनुमोदित आवेदन उपर्युक्त तीन माह की समाप्ति पर अवकाश उक्त अवधि की समाप्ति के ठीक पूर्व प्राप्त हुआ हो, संगठन अनुमोदित आवेदन प्राप्त करने के पश्चात यथाशीघ्र अनुमोदन की अवधि बढ़ाने के लिए आवेदन करें इस अनुमोदन की अवधि बढ़ाने के सम्बन्ध में किए गए आवेदन-पत्र की 6 प्रतियां सचिव, वैज्ञानिक

S.O. 2286.—It is hereby notified for general information that the organisation mentioned below has been approved by the Prescribed Authority under Rule 6 of the Income-tax Rules, 1962, i.e., the Director General of Income-tax (Exemptions) in concurrence with the Secretary, Department of Scientific & Industrial Research for the purposes of clause (ii) of Sub-section (1) of Section 35 (Thirty Five one/two) of the Income-tax Act, 1961 under the category University subject to the following conditions :

- (i) The organisation will maintain a separate account of the sums received by it for Scientific Research;
- (ii) It will furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, 'Technology Bhawan, New Mehrauli Road, New Delhi-110016 for every financial year by 31st May of each year; and
- (iii) It will submit to the (a) Director General of Income-tax (Exemptions), (b) Secretary, Department of Scientific & Industrial Research and (c) Commissioner of Income-tax/Director of Income-tax (Exemptions) having jurisdiction over the organisation, by the 30th June each year a copy of its audited annual accounts showing its income and expenditure, and its assets and liabilities.

NAME OF THE ORGANISATION

University of Bombay (University Department of Chemical Technology), Mahatma Gandhi Road, Bombay-400032.

This Notification is effective for the period from 1-4-90 to 31-3-91.

NOTE.—The organisation is advised to apply (in triplicate) for further extension of the approval, to the Director General of Income-tax (Exemptions), Calcutta through the Commissioner of Income-tax/the Director of Income-tax (Exemptions) having jurisdiction over the organisation, three months before the expiry of the approval. In exceptional cases where the order granting approval is received after the expiry of the period of three months aforesaid or shortly before the expiry of the said period the organisation may make an application for extension of approval as soon as possible after the receipt of the order of approval. Six copies of the application for extension of approval should be sent directly to the Secretary, Department of Scientific & Industrial Research.

[No. 230/F. No. DG/M-91/Cal-35(1)(ii)|90-IT(F)]

(आयकर)

का.आ. 2287:— सर्वसाधारण की सूचना के लिये एतद्वारा यह अधिसूचना किया जाता है कि निम्नलिखित संगठन को, आयकर अधिनियम 1961 की धारा 35 (पैरीस/एक/तीन) की उपधारा (1) के खण्ड (iii) के लिए, सचिव वैज्ञानिक और औद्योगिक अनुसंधान विभाग की सहमति से, आयकर नियम, 1962 के नियम 6 के अधीन विहित प्राधिकारी अर्थात् महानिदेशक (आयकर छूट)

द्वारा निम्नलिखित शर्तों पर "संस्था" प्रवर्ग के अधीन अनुमोदित किया गया है।

- (1) संगठन वैज्ञानिक अनुसंधान के लिये प्राप्त धन के लिये एक अलग लेखा रखेगा।
- (2) यह अपने वैज्ञानिक अनुसंधान संबंधी कार्यकलापों का एक वार्षिक विवरण प्रत्येक वित्तीय वर्ष के लिये, प्रत्येक वर्ष की 31 मई तक, सचिव, वैज्ञानिक व औद्योगिक अनुसंधान विभाग, औद्योगिक भवन, न्यू मेहरोली रोड, नई दिल्ली-110066 को भेजेगा।
- (3) यह प्रत्येक वर्ष की 30 जून तक, लेखा-परीक्षित वार्षिक लेखों की एक प्रति अपनी-व्यय, आस्तियों एवं देनदारियों के विवरण सहित, (क) महानिदेशक (आयकर छूट) (ख) सचिव, वैज्ञानिक व औद्योगिक अनुसंधान विभाग और (ग) आयकर आयुक्त आयकर निदेशक (छूट) जिनके क्षेत्राधिकार में पड़ता है, को प्रस्तुत करेगा।

संगठन का नाम

सेन्टर फॉर ओर्गेनाइजेशन डेवलपमेंट माधवपुर जुबली हिल्स एक्सटेंशन, पो. बा. नं.-6, बनजरा हिल्स, हैदराबाद 500034

यह अधिसूचना दिनांक 1-4-90 से 31-3-93 तक की अवधि के लिये प्रभावी है।

टिप्पणी : संगठन को अनुमोदन की अवधि बढ़ाने के लिए अनुमोदन की समाप्ति के तीन माह पूर्व आयकर आयुक्त/आयकर निदेशक छूट जिनके क्षेत्राधिकार में संगठन पड़ता है के माध्यम से आयकर महानिदेशक (छूट), कलकत्ता को तीन प्रतियां में आवेदन करने के लिये सुझाव दिया जाता है। विशेष मामलों में, जहां अनुमोदित आदेश उपर्युक्त तीन माह की समाप्ति पर अथवा उक्त अवधि की समाप्ति के ठीक पूर्व प्राप्त हुआ हो, संगठन अनुमोदित आदेश प्राप्त करने के पश्चात् यथाशीघ्र अनुमोदन की अवधि बढ़ाने के लिए आवेदन करें। अनुमोदन की अवधि बढ़ाने के सम्बन्ध में किए गए आवेदन-पत्र की 6 प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को प्रस्तुत करना है।

[सं. 231 (फा.सं. डी.जी/ए. पी-7/कल./35/(1)
(iii) 89-आ.कर (छूट)]

(INCOME-TAX)

S.O. 2287.—It is hereby notified for general information that the organisation mentioned below has been approved by the prescribed Authority under Rule 6 of the Income-tax Rules, 1962, i.e., the Director General of Income-tax (Exemptions) in concurrence with the Secretary, Department of Scientific and Industrial Research for the purpose of

clause (iii) of Sub-section (1) of Section 35 (Thirty Five/one/three) of the Income-tax Act, 1961 under the category "Institution" subject to the following conditions:

- (i) The organisation will maintain a separate account of the sums received by it for Scientific Research;
- (ii) It will furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, Technology Bhawan, New Mehrauli Road, New Delhi-110016 for every financial year by 31st May of each year; and
- (iii) It will submit to the (a) Director General of Income-tax (Exemptions) (b) Secretary, Department of Scientific & Industrial Research and (c) Commissioner of Income-tax/Director of Income-tax (Exemptions) having jurisdiction over the organisation, by the 30th June each year a copy of its audited annual accounts showing its income and expenditure, and its assets and liabilities.

NAME OF THE ORGANISATION

Centre for Organisation Development, Madhavpur, Jubilee Hills Extensions, P. B. No. 1, Banjara Hills, Hyderabad-500034.

This Notification is effective for the period from 1-4-90 to 31-3-93.

NOTE.—The organisation is advised to apply (in triplicate) for further extension of the approval, to the Director General of Income-tax (Exemptions), Calcutta through the Commissioner of Income-tax/the Director of Income-tax (Exemptions) having jurisdiction over the organisation, three months before the expiry of the approval. In exceptional cases where the order granting approval is received after the expiry of the period of three months aforesaid or shortly before the expiry of the said period the organisation may make an application for extension of approval as soon as possible after the receipt of the order of approval. Six copies of the application for extension of approval should be sent directly to the Secretary, Department of Scientific & Industrial Research.

[No. 231/F. No. DG/AP-7/Cal 35(1)(iii)90-IT(E)]

(आयकर)

का.आ. 2288:—सर्वसाधारण की सूचना के लिये एतद्वारा यह अधिसूचित किया जाता है कि निम्नलिखित संगठन को, आयकर अधिनियम 1961 की धारा 35 (पैरिस/एक/दो) की उपधारा (1) के खण्ड (ii) के लिये, सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग की सहमति से, आयकर नियम, 1962 के नियम 6 के अधीन विहित प्राधिकारी अर्थात् महानिदेशक (आयकर छूट) द्वारा निम्नलिखित शर्तों पर "संघ" प्रवर्ग के अधीन अनुमोदित किया गया है।

- (1) संगठन वैज्ञानिक अनुसंधान के लिए प्राप्त धन के लिये एक अलग लेखा रखेगा।
- (2) यह अपने वैज्ञानिक अनुसंधान संबंधी कार्यकलापों का एक वार्षिक विवरण प्रत्येक वित्तीय वर्ष के लिये, प्रत्येक वर्ष की 31 मई तक, सचिव, वैज्ञानिक व औद्योगिक अनुसंधान विभाग, औद्योगिक भवन, न्यू मेहरोली रोड, नई दिल्ली-110016 को भेजेगा।
- (3) यह प्रत्येक वर्ष की 30 जून तक, लेखा-परीक्षित वार्षिक लेखों की एक प्रति अपनी-व्यय आस्तियों

एवं वेतनारियों के विवरण सहित, (क) महा-निदेशक (आयकर छूट) (ख) सचिव, वैज्ञानिक व औद्योगिक अनुसंधान विभाग, और (ग) आयकर आयुक्त/आयकर निदेशक (छूट) जिनके क्षेत्राधिकार में पड़ता है, को प्रस्तुत करेगा।

संगठन का नाम

कर्नाटका स्टेट सेरीकलचर डेवलपमेंट इंस्टीट्यूट
थलागटपुरा, बेंगलूर-560062 कर्नाटक

यह अधिसूचना दिनांक 1-4-90 से 31-3-92 तक की अवधि के लिये प्रभावी है।

टिप्पणी : संगठन को अनुमोदन की अवधि बढ़ाने के लिये अनुमोदन की समाप्ति के तीन माह पूर्व आयकर आयुक्त/आयकर निदेशक (छूट), जिनके क्षेत्राधिकार में संगठन पड़ता है, के माध्यम से आयकर महा-निदेशक (छूट), कलकत्ता को तीन प्रतियों में आवेदन करने के लिये सुझाव दिया जाता है। विशेष मामलों में, जहां अनुमोदन आदेश उपर्युक्त तीन माह की समाप्ति पर अथवा उक्त अवधि की समाप्ति के ठीक पूर्व प्राप्त हुआ हो, संगठन अनुमोदित आदेश प्राप्त करने के पश्चात् यथाशीघ्र अनुमोदन की अवधि बढ़ाने के लिए आवेदन करें। अनुमोदन की अवधि बढ़ाने के सम्बन्ध में किए गए आवेदन-पत्र की 6 प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को प्रस्तुत करना है।

[सं. 232/फा.सं.डी.जी./क.टी-22/कल./35/(1)
(ii)/90-आ.कर (छूट)]

जे. चक्रवर्ती, उपनिदेशक, आयकर (छूट)

(INCOME-TAX)

2288.—It is hereby notified for general information that the organisation mentioned below has been approved by the Prescribed Authority under Rule 6 of the Income-tax Rules, 1962, i.e., the Director General of Income-tax (Exemptions) in concurrence with the Secretary, Department of Scientific & Industrial Research for the purposes of clause (ii) of Sub-section (1) of Section 35 (Thirty Five) of the Income-tax Act, 1961 under the category "Association" subject to the following conditions :

- (i) The organisation will maintain separate account of the sums received by it for Scientific Research ;
- (ii) It will furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, Technology Bhawan, New Mehrauli Road, New Delhi-110016 for every financial year by 31st May of each year ; and
- (iii) It will submit to the (a) Director General of Income-tax (Exemptions), (b) Secretary, Department of Scientific & Industrial Research, and (c) Commissioner of Income-tax [Director of Income-tax (Exemptions) having jurisdiction over the organisation, by the 30th June each year a copy of its audited annual accounts showing its income and expenditure, and its assets and liabilities

NAME OF THE ORGANISATION

Karnataka State Sericulture Development Institute, Thalagattapura, Bangalore-560062 Karnataka.

This Notification is effective for the period from 1-4-90 to 31-3-92.

NOTE.—The organisation is advised to apply (in triplicate) for further extension of the approval, to the Director General of Income-tax (Exemptions), Calcutta through the Commissioner of Income-tax [the Director of Income-tax (Exemptions) having jurisdiction over the organisation, three months before the expiry of the approval. In exceptional cases where the order granting approval is received after the expiry of the period of three months aforesaid or shortly before the expiry of the said period, the organisation may make an application for extension of approval as soon as possible after the receipt of the order of approval. Six copies of the application for extension of approval should be sent directly to the Secretary, Department of Scientific & Industrial Research.

[No. F. 232/F. No. DG/KT22/Cal./35(i)(ii)/90-IT(E)]

J. CHAKRAVORTY, Dy. Director, IT(E)

आदेश

नई दिल्ली, 10 अगस्त, 1990

स्टाम्प

का.आ. 2289—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा गुजरात औद्योगिक विकास निगम, अहमदाबाद को एक लाख बारह हजार पांच सौ रु. मात्र के उस समेकित स्टाम्प शुल्क का भुगतान करने की अनुमति प्रदान करती है जो कि उक्त निगम द्वारा जारी किए जाने वाले एक करोड़ पचास लाख रु० मात्र के अंकित मूल्य के ऋण पत्रों के स्वल्प के "11.5% जी. आई. डी. बंधपत्र 2008 I श्रृंखला)" के बंधपत्रों पर स्टाम्प शुल्क के कारण प्रभावी है।

[सं. 20/90-स्टाम्प-फा.सं. 33/57/90-बि.क.]

ORDER

New Delhi, the 10th August, 1990

STAMPS

S.O. 2289.—In exercise of the powers conferred by clause (b) of Sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits the Gujarat Industrial Development Corporation, Ahmedabad to pay consolidated stamp duty of rupees one lakh twelve thousand five hundred only, chargeable on account of the stamp duty on "11.5 per cent G.I.D. Bonds 2008-I Series" bonds in the form of debentures of the face value of rupees one crore and fifty lakhs only to be issued by the said Corporation.

[No. 20/90-Stamp-F No. 33/57/90-ST.]

आदेश

नई दिल्ली, 21 अगस्त, 1990

स्टाम्प

का.आ. 2290:— भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार एतद्वारा उस शुल्क को माफ करती है जो नेशनल हाइड्रोइलेक्ट्रिक पावर कॉर्पोरेशन लि. द्वारा जारी एक सौ पचास करोड़ रु. मात्र के मूल्य के 9% (कर मुक्त) "ई" श्रृंखला के बंधपत्रों के रूप में वर्णित बंधपत्रों पर उक्त अधिनियम के अंतर्गत प्रभावी है।

[सं. 24/90-स्टा.फा.सं. 33-40/90-बि.क.]

बी. के. स्वामीनाथन, अवसर सचिव

New Delhi, the 21st August, 1990

ORDER

STAMPS

S.O. 2290.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the bonds in the nature of 9 per cent (tax-free) "E"—Series Bonds of the value of rupees one hundred and fifty crores only issued by the National Hydroelectric Power Corporation Limited are chargeable under the said Act.

[No. 24/90-Stamp-F. No. 33/40/90-ST.]

V. K. SWAMINATHAN, Under Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 17 अगस्त, 1990

का.आ. 2291:—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1970 के खण्ड 8 के उपखण्ड (i) के साथ पठित खण्ड 3 के उपखण्ड (क) के अनुसरण में, केंद्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श करने के पश्चात् श्री बी.बी. शेटी को एतद्वारा 14 दिसम्बर, 1990 से आरम्भ होने वाली तथा 13 दिसम्बर, 1995 को समाप्त होने वाली अवधि के लिए इंडियन बैंक के पूर्णकालिक निदेशक (कार्यकारी निदेशक के रूप में पदनामित) के रूप में पुनः नियुक्त करती है।

[संख्या 9/30/90-बी. ओ. I]

एम.एस. सीतारामन, अवसर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 17th August, 1990

S.O. 2291.—In pursuance of sub-clause (a) of clause 3 read with sub-clause (1) of clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, after consultation with the Reserve Bank of India, hereby re-appoints Shri B. B. Shetty

as a whole-time Director (designated as the Executive Director) of the Indian Bank for the period commencing on December 14, 1990 and ending with December 13, 1995.

[No. F. 9/30/90-BO.I]

M. S. SEETHARAMAN, Under Secy.

(बीमा खंड)

नई दिल्ली, 21 अगस्त, 1990

का.आ. 2292:—केंद्रीय सरकार, भारतीय जीवन बीमा निगम वर्ग 3 और वर्ग 4 कर्मचारी (सेवा के निबंधनों और शर्तों का पुनरीक्षण) नियम, 1985 के नियम 13 के उपनियम (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्धारित करती कि वर्ग 3 और वर्ग 4 के कर्मचारियों में से प्रत्येक को 1 अप्रैल, 1989 को आरंभ होने वाली और 31 मार्च, 1990 को समाप्त होने वाली अवधि के लिए बोनस के बदले में संदाय, उक्त उपनियम में अन्य उपबंधों के अधीन रहते हुए, उसके संबलम के 15 प्रतिशत की दर पर किया जाएगा।

[फा.सं. 2(13)/बीमा-III/88]

जी.एम. शुनमुगम, अवसर सचिव (बीमा)

(Insurance Division)

New Delhi, the 21st August, 1990

S.O. 2292.—In exercise of the powers conferred by sub-rule (2) of rule 13 of the Life Insurance Corporation of India Class III and Class IV Employees (Revision of Terms and Conditions of Service) Rules, 1985 the Central Government hereby determines that subject to the other provisions of the said sub-rule, the payment in lieu of bonus for the period commencing on the 1st day of April, 1989 and ending with the 31st day of March, 1990 to every Class III and Class IV employee shall be at the rate of 15 per cent of his salary.

[F. No. 2(13)/Ins. III/88]

G. M. SHUNMUGAM, Under Secy. (Insurance)

नई दिल्ली, 21 अगस्त, 1990

का.आ. 2293:—बीमा अधिनियम, 1938 (1938 का 4) की धारा 25-बी की उपधारा (1) के खण्ड (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार एतद्वारा भारतीय साधारण बीमा निगम द्वारा बैंक के जमा प्रमाण पत्रों पर लगाई गई धनराशि को उक्त धारा के प्रयोजन के लिए 'अनुमोदित' निवेश घोषित करती है।

[फा.सं. 132(4)/निवेश/90]

New Delhi, 21st August, 1990

S.O. 2293.—In exercise of the powers conferred by clause (j) of sub-section (1) of Section 27B of the Insurance Act, 1938 (4 of 1938), the Central Government

hereby declares the placement of money by General Insurance Corporation of India on the Certificates of Deposits of Banks as "approved" Investments for the purpose of the said section.

[F. No. 132(4)|Inv. 90]

का.आ. 2294—बीमा अधिनियम, 1938 (1938 का 4) की धारा 27-बी की उप-धारा (1) के खण्ड (ज) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा भारतीय साधारण बीमा निगम और इसकी सहायक कम्पनियों द्वारा सभी अनुसूचित वाणिज्यिक बैंकों के माध्यम से भारतीय रिजर्व बैंक की वाणिज्यिक पत्र स्कीम में अल्पकालीन अधिग्रहण राशियों के नियोजन (प्लेसमेंट) को उक्त धारा के प्रयोजन के लिए "अनुमोदित" निवेश घोषित करती है।

[फा.सं. 132/6/निवेश-IV/90]

एस. कन्नन, संयुक्त सचिव

S.O. 2294.—In exercise of the powers conferred by clause (j) of sub-section (1) of Section 27B of the Insurance Act, 1938 (4 of 1938), the Central Government hereby declares placement of short term surplus funds by General Insurance Corporation of India and Subsidiary Companies in Commercial Papers Scheme of the Reserve Bank of India through all the Scheduled Commercial Reserve Bank of India investments for the purpose of the said section.

[F. No. 132(6)|Inv. IV/90]

S. KANNAN, Jt. Secy.

वस्त्र मंत्रालय

नई दिल्ली, 13 अगस्त, 1990

का.आ. 2295.—केन्द्रीय सरकार, केन्द्रीय रेशम बोर्ड अधिनियम, 1948 (1948 का 61) की धारा 4 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत सरकार के वस्त्र मंत्रालय को अधिसूचना सं. का.आ. 747 (ई) दिनांक 9 अगस्त, 1988 में निम्नलिखित संशोधन करती है:—

उक्त अधिसूचना में

(क) क्रम सं. 4 और उसमें संबंधित प्रविष्टि के स्थान पर निम्नलिखित रखा जाएगा, अर्थात:—

4. सचिव-2, कर्नाटक अधिनियम की धारा 4(3) (घ) सरकार, वाणिज्य एवं के अधीन कर्नाटक सरकार द्वारा उद्योग विभाग नामित।

(ख) क्रम सं. 20 और उसमें संबंधित प्रविष्टि के स्थान पर निम्नलिखित को रखा जाएगा, अर्थात:—

"20. निदेशक (उद्यान) अधिनियम की धारा 4(3) (1) राजस्थान सरकार के अधीन केन्द्र सरकार द्वारा नामित।

[फा.सं. 25012/11/88-सिल्क]

परमेश्वरन प्रद्युम्न, उप सचिव

MINISTRY OF TEXTILES

New Delhi, the 13th August, 1990

S.O. 2295.—In exercise of the powers conferred by sub-section (3) of Section 4 of the Central Silk Board Act, 1948 (61 of 1948), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Textiles No. S. O. 747(E) dated 9th August, 1988 :—

In the said notification.

(a) For serial No. 4 and the entry relating thereto, the following shall be substituted, namely :—

"4. Secretary-2 to the Government of Nominated by Government of Karnataka, Commerce and Industries Department under Section 4 (3) (d) of the Act."

(b) For serial No. 20 and the entry relating thereto, the following shall be substituted, namely.

"20. Director (Horticulture) Nominated by Central Government of Rajasthan. Government under Section 4 (3) (i) of the Act."

[F. No. 25012/11/88-Silk]

PARAMESWARAN IYER, Dy. Secy.

कृषि मंत्रालय

(कृषि और सहकारिता विभाग)

नई दिल्ली, 3 अगस्त, 1990

का.आ. 2296 राष्ट्रपति, संविधान के अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए साधारण केन्द्रीय सेवा वर्ग 1 और वर्ग 2 (अतिरिक्त) पद (दिल्ली दुग्ध योजना, नई दिल्ली) भर्ती नियम, 1964 का संशोधन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात:—

1. (1) इन नियमों का संक्षिप्त नाम साधारण केन्द्रीय सेवा वर्ग 1 और वर्ग 2 (अतिरिक्त) पद (दिल्ली दुग्ध योजना, नई दिल्ली) भर्ती (संशोधन) नियम, 1990 है।

(2) ये राजपत्र में प्रकाशन की तारीख का प्रवृत्त होंगे।

2. साधारण केन्द्रीय सेवा वर्ग 1 और वर्ग 2 (अतिरिक्त) पद (दिल्ली दुग्ध योजना, नई दिल्ली) भर्ती नियम, 1964 की अनुसूची में, डेरी इंजीनियरी (कनिष्ठ) के पद के सामने,

(1) स्तम्भ 4 में की प्रविष्टि के स्थान पर, निम्नलिखित प्रविष्टि रखी जाएगी, अर्थात

3000-100-3500-125-4500 रु ;

(2) स्तम्भ 7 में, (सरकारी नौकरों के लिए शिपिंग की जा सकती है) कोष्ठकों और शब्द के स्थान पर, निम्नलिखित कोष्ठक और शब्द रखे जाएंगे, अर्थात:—

(केन्द्रीय सरकार द्वारा जारी किए गए प्रवृत्तियों या आदेशों के अनुसार सरकारी सेवाओं के लिए 5 वर्ष तक शिथिल की जा सकती है।)

[सं. 5-3/90-एल. डी. - I]

शान्ता शीला नायर, निदेशक (डी डी)

पाठ टिप्पण :- मूल भर्ती नियम, भारत के राजपत्र में सा. का. नि. सं. के अधीन खाद्य और कृषि मंत्रालय (कृषि विभाग) की अधिसूचना सं. 7-6/60-डी डी तारीख 10 जून, 1964 द्वारा प्रकाशित किए गए थे।

MINISTRY OF AGRICULTURE

(Department of Agriculture & Cooperation)

New Delhi, the 3rd August, 1990

S.O. 2296.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules to amend the General Central Services Class I and Class II (additional) posts (Delhi Milk Scheme, New Delhi) Recruitment Rules, 1964, namely :—

1. (1) These rules may be called the General Central Services Class I and Class II (additional) posts (Delhi Milk Scheme, New Delhi) Recruitment (Amendment) Rules, 1990.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Schedule to the General Central Services Class I and Class II (additional) posts (Delhi Milk Scheme, New Delhi) Recruitment Rules, 1964, against the post of Dairy Engineer Junior,—

(i) in column 4, for the entry, the following entry shall be substituted, namely :—
“Rs. 3000-100-3500-125-4500.”;

(ii) in column 7 for the brackets and word “(Relaxable for Government Servants)”, the following brackets and words shall be substituted, namely :—

“(Relaxable for Government servants upto five years in accordance with the instructions or orders issued by the Central Government)”.

[No. 5-3/90-LD.I]

SANTHA SHEELA NAIR, Director (DD)

FOOT NOTE : The principal recruitment rules were published in the Gazette of India vide Ministry of Food & Agriculture, (Department of Agriculture) Notification No. 7-6/60-DD, dated the 10th June, 1964, under G.S.R. No.

ऊर्जा मंत्रालय

कोयला विभाग

शुद्धि-पत्र

नई दिल्ली, 9 अगस्त, 1990

का. आ. 2297.—भारत के राजपत्र तारीख 19 अगस्त, 1989 के भाग II, खंड 3. उपखंड (ii) में पृष्ठ क्रमांक 2375 - 2377 पर प्रकाशित भारत सरकार के ऊर्जा मंत्रालय (कोयला विभाग) की अधिसूचना का. आ. सं. 1916 तारीख, 17 जुलाई, 1989 में -

पृष्ठ क्रमांक 2375 पर - अधिसूचना में -

पंक्ति 4 में- “601.526 हेक्टर (लगभग)” के स्थान पर “601.526 हेक्टर (लगभग) है; पढ़ें।

पृष्ठ क्रमांक 2376 अनुसूची में

पंक्ति 2 में- “आई. बी.” के स्थान पर “ईबी” पढ़ें।

तालिका में, ग्राम स्तंभ के नीचे-

क्रम संख्या 6- “ब्रजराजनगर टाउन” के स्थान पर

“ब्रजराजनगर टाउन यूनिट - 1” पढ़ें।

ग्राम ब्रजराजनगर टाउन यूनिट-3 में अर्जित किए गए प्लॉट संख्यांक (भाग) में-

पंक्ति 2 में “59 से 61” के स्थान पर “58 से 61” पढ़ें।

ग्राम धिगरीगुडा में अर्जित किए गए प्लॉट संख्यांक (भाग) में-

पंक्ति 3 में- “143/207” के स्थान पर “143/1207” पढ़ें।

पंक्ति 3 में “41/1218” के स्थान पर “4/1218” पढ़ें।

पंक्ति 3 में “78/1233” के स्थान पर “76/1233” पढ़ें।

पंक्ति 3 में “131/1240” के स्थान पर “13/1240” पढ़ें।

पंक्ति 4 में “144/1302” के स्थान पर “114/1302” पढ़ें।

ग्राम बेलपहाड़ में अर्जित किए गए प्लॉट संख्यांक (भाग) में-

पंक्ति 1 में “2680 (भाग)” के स्थान पर “2686 (भाग)” पढ़ें।

पंक्ति 2 में “2684/7088 (भाग)” के 2684/7015 (भाग) के स्थान पर क्रमशः 2684/7008 (भाग), 2684/7009, 2684/7010 (भाग), 1684/7012, 2684/7013, 2684/7014 (भाग), 2684/7015 (भाग)” पढ़ें।

पंक्ति 3 में और “2684/8072, 2684/7009, 2684/7010 (भाग), 1684/7012, 2684/7014 के स्थान पर “और 2684/8572” पढ़ें।

पृष्ठ क्रमांक 2377 पर-

ग्राम छुआ लिबेरना के स्थान पर “ग्राम छुआलिबेरना” पढ़ें।

ग्राम छुआलिबेरना में अर्जित किए गए प्लॉट संख्यांक (भाग) में-

पंक्ति 4 में “380 (भाग) 401 (भाग)” के स्थान पर “380 (भाग), 381 (भाग), 401 (भाग)” पढ़ें।

पंक्ति 4 में “406 से 407 (भाग) के स्थान पर “406, 407 (भाग)” पढ़ें।

पंक्ति 11 में “1338/1560” के स्थान पर “1339/1566” पढ़ें।

पंक्ति 12 में “411 से 1602” के स्थान पर “411/1602” पढ़ें।

पंक्ति 15 में “662/1630” के स्थान पर “662/1639” पढ़ें।

पंक्ति 17 में "1431/1675, 1432/1677" के स्थान पर
"1431/1675, 1432/1676, 1432/1677"
पढ़ें।

ग्राम आमदरहा में अर्जित किए गए प्लॉट संख्यांक (भाग) में—
पंक्ति 2 में "330 (भाग)" के स्थान पर 320 (भाग)"
पढ़ें।

पंक्ति 3 में "343 (भाग), 345 (भाग)" के स्थान पर
"343 (भाग), 344 (भाग) 345 (भाग)"
पढ़ें।

पंक्ति 3 में "343 (भाग), 345 (भाग)" के स्थान पर
"343 (भाग), 344 (भाग) 345 (भाग)"
पढ़ें।

सीमा वर्णन में—

ग-घ-ङ रेखा ग्राम आमदरहा के प्लॉट संख्यांक 354 और
प्लॉट संख्या 364 की पश्चिमी सीमा तथा प्लॉट संख्यांक
363/424, 361, 373, 374, 384" के स्थान पर
"—————" पढ़ें।

रेखा ग-घ-ङ में—

पंक्ति 1 में— "363, 424" के स्थान पर "363/424"
पढ़ें।

रेखा ङ-च-छ में—

पंक्ति 1 में "ग्राम छुआलिबेरना" के स्थान पर "ग्राम छुआ-
लिबेरना" पढ़ें।

पंक्ति 4 में "2684/1070" के स्थान पर "2684/7010"
पढ़ें।

रेखा ज-झ में

पंक्ति 3 में "794, 770" के स्थान पर "794, 769,
770" पढ़ें।

acquired in Village Brajrajnagar town unit 3(P)";
in plot numbers acquired in Village Brajrajnagar town
unit 3(P), in 3rd line, for "253(R)" read "253(P)";
for "Plot numbers to be acquired in Village Chingriguda
(P)" read "Plot numbers acquired in Village
Chingriguda (P)"; in plot numbers acquired in
village Chingriguda (P), in 1st line, for "170/1136"
read "70/1136";
for "Plot numbers to be acquired in Village Belpahar (P)"
read "Plot numbers acquired in Village Belpahar
(P)"; in plot numbers acquired in village Belpahar
(P) in 1st line, for "689(P)" read "2689(P)";
in 2nd line, for "268/7008(P)" read "2684/7008(P)";
at page 2379, the first three lines may be omitted;
in the 4th line, for "Plot numbers to be acquired
in Village Chhualiberna (P)" read "Plot numbers
acquired in Village Chhualiberna (P)"; in plot
numbers acquired in Village Chhualiberna (P), in
5th line, for "711 o 768" read "711 to 768";
in 6th line, for "896 o 925" read "895 to 925";
in 9th line, for "480/1561" read "580/1561"; for
"14124/1571, 1420, 1572" read "1424/1571, 1420/
1572"; and for "09/1577" read "609/1577"; in
10th line, for "610/159" read "610/1594"; in
10th & 11th line, for "578/1644" read "578/1614";
in 11th line, for "579/12620" read "579/1620" and for
"698/2628, 708/1629" read "698/1628, 708/1629" in
12th line, for "747/1 (42, 747/1 (43)" read "747/
1642, 747/1643";
in 13th line, for "1283/1 ((7(P), 1283/1((8(P)" read
"1283/1667(P), 1283/1668(P)";
in 14th line, for "1432/1670" read "1439/1676";
in 14th line, for "1432/1670" read "1432/1676";
578/1698";
for "Plot numbers to be acquired in Village Amadarha
(P)" read "Plot numbers acquired in Village
Amadarha (P)"; in plot numbers acquired in Village
Amadarha(P) in 2nd line, for "348 o 3 50" read
"348 to 350"; in boundary description in A-B-C, in
1st line, for "A' to the" read "A' on the";
in 2nd line, for "98/" read "98";
in 3rd line, for "221" read "321";
in E-F-G, in 3rd line, for "1007/1305" read "1007, 1305";
in 6th line, for "2684, 7008 read "2684/7008";
in I-J-K-A, in 4th line, for "64" read "6".

[No. 43015/16/85-CA/LSW]

B. B. RAO, Under Secy.

[सं: 43015/16/85 - सी ए/एल एस डब्ल्यू.]
बी. बी. राव, अधीक्षक सचिव

MINISTRY OF ENERGY (Department of Coal)

CORRIGENDUM

New Delhi, the 9th August, 1090

S.O. 2297.—In the notification of the Government of India,
in the Ministry of Energy, Department of Coal No. S.O.
1916, dated the 17th July, 1989 published at page 2378 and
2379 of the Gazette of India, Part II, section 3, sub-section
(ii) dated the 19th August, 1989—

at page 2378, in the

11th line, for "1486.394" read "1486.391"; in 16th line,
for "insped" read "inspected";

in Schedule for "Plot numbers to be acquired in Village
Brajrajnagar town unit 3(P)" read "Plot numbers

पेट्रोलियम और रसायन मंत्रालय
(पेट्रोलियम और प्राकृतिक गैस विभाग)
नई दिल्ली, 10 अगस्त, 1990

का. मा. 2298—केन्द्रीय सरकार, तेल उद्योग विकास
अधिनियम, 1974 (1974 का 47) की धारा 3 की
उपधारा 3 के खंड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग
करते हुए तेल एवं प्राकृतिक गैस आयोग के अध्यक्ष श्री
एस. एल. खोसला को कर्नल एस. पी. वाही के स्थान पर,
तेल उद्योग विकास बोर्ड में एक सदस्य के रूप में तत्काल
प्रभाव से दो वर्ष से अधिक अवधि के लिए नियुक्त करती
है।

[संख्या जी-35012/1/90 - वित्त - II]
फल्गुनी राजकुमार निदेशक (वित्त)

MINISTRY OF PETROLEUM AND CHEMICALS

(Department of Petroleum and Natural Gas)

New Delhi, the 10th August, 1990

S.O. 2298.—In exercise of the powers conferred by clause (c) of sub-section (3) of section 3 of the Oil Industry Development Act, 1974 (47 of 1974), the Central Government hereby appoints, with immediate effect and for a period not exceeding two years, Shri S. L. Khosla, Chairman, Oil & Natural Gas Commission, as a Member of the Oil Industry Development Board vice Col. S. P. Wahi.

[No. G-35012/1/90-Fin. II]

FALGUNI RAJKUMAR, Director (Finance)

स्वास्थ्य और परिवार कल्याण मंत्रालय

(नई दिल्ली, 13 जुलाई, 1990)

का. आ. 2299—केन्द्रीय सरकार, भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 3 की उपधारा (1) के खंड (ग) के अनुमरण में भारत सरकार के तत्कालीन स्वास्थ्य मंत्रालय की अधिसूचना संख्या का. आ. 138, तारीख 9 जनवरी, 1950 में निम्नलिखित और संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में, "धारा 3 की उपधारा (1) के खंड (ग) के अधीन निर्धारित" शीर्ष के अर्थान क्रम सं. 12 और उससे संबंधित प्रविष्टि के स्थान पर निम्नलिखित क्रम सं. और प्रविष्टि रखी जाएगी, अर्थात् :—

"12, डा. एम. भीमप्पा,

212, 38वां क्रम,

ब्लॉक - 8

जयनगर, बैंगलूर - 82"।

[संख्या बी. 11013/5) 8/87 एम.ई. (पी.)]

MINISTRY OF HEALTH AND FAMILY WELFARE

New Delhi, the 13th July, 1990

S.O. 2299.—In pursuance of clause (c) of Section 3 of the Indian Medical Council Act, the Central Government hereby makes the following further amendment in the notification of the Government of India in the late Ministry of Health No. S.O. 138 (No. 5-13/59-MI), dated the 9th January, 1960, namely:—

In the said notification, under the heading "Elected under clause (c) of sub-section (1) of section 3" for serial number 12 and the entry relating thereto the following serial number and entry shall be substituted, namely :—

"12. Dr. S. Bheemappa,

212, 38th Cross,

8th Block.

Jayanagar,

Bangalore-82"

[No. V-11013/58/87-ME(P)]

(स्वास्थ्य विभाग)

नई दिल्ली, 16 जुलाई, 1990

का. आ. 2300.—केन्द्रीय सरकार, भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11

की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के पश्चात् उक्त नियम की पहली अनुसूची में निम्नलिखित और संशोधन करती है, अर्थात् :—

उक्त अनुसूची में "रांची विश्वविद्यालय" शीर्ष के नीचे अंत में निम्नलिखित प्रविष्टियां जोड़ी जाएंगी, अर्थात् :—

"एनेस्थेजियोलॉजी में डिप्लोमा डी. ए.

डा. ऑफ मेडिसिन (त्वचा विज्ञान, एम. डी. (त्वचा विज्ञान रति रोग विज्ञान और कुष्ठ रोग रति रोग विज्ञान, कुष्ठ विज्ञान) रोग विज्ञान)

रति रोग विज्ञान और त्वचा विज्ञान डी. बी. डी."

में डिप्लोमा

[संख्या बी.—11015/20/89 - एम. ई. (पी.)]

(Department of Health)

New Delhi, the 16th July, 1990

S.O. 2300.—In exercise of the powers conferred by sub-section (2) of section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after Consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:—

In the said Schedule, under the heading "Ranchi University", the following entries shall be added at the end, namely:—

"Diploma in Anaesthesiology

DA

Doctor of Medicine (Dermatology,

Venereology and Leprosy) MD (Derm Ven and Leprosy)

Diploma in Venereology and

D.V.D"

Dermatology

[No. V.11015/20/89-ME(P)]

नई दिल्ली, 17 जुलाई, 1990

का. आ. 2301.—केन्द्रीय सरकार, भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के पश्चात् उक्त अधिनियम की प्रथम अनुसूची में निम्नलिखित और संशोधन करती है, अर्थात् :—

उक्त अनुसूची में राजस्थान विश्वविद्यालय शीर्ष के नीचे "डाक्टर आफ मेडिसिन (रेडियो डायग्नोसिस) एम डी (रेडियो डायग्नोसिस)" प्रविष्टि के पश्चात् निम्नलिखित प्रविष्टि अंत में स्थापित की जाएगी, अर्थात् :—

"डाक्टर आफ मेडिसिन (त्वचा विज्ञान, रति रोग विज्ञान और कुष्ठ) एम डी. (त्वचा विज्ञान, रतिरोग विज्ञान और कुष्ठ)

[संख्या बी. 11015/7/90 - एम ई (पी)]

New Delhi, the 17th July, 1990

S.O. 2301.—In exercise of the powers conferred by sub-section (2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendment in the First Schedule to the said Act, namely:—

In the said Schedule, under the heading University of Rajasthan, after the entry Director of Medicine (Radio-Diagnosis) M.D. (Radio-Diag.) the following entry shall be inserted, namely:—

“Doctor of Medicine M.D. (Derm.,
(Dermatology, Venereology and Ven. & Leprosy)”
Leprosy)

[No. V-11015/7/90-ME(P)]

शङ्खि-पत्र

का. आ. 2302.—भारत के राजपत्र में दिनांक 14 मई, 1988 को उस्मानिया विश्वविद्यालय के संबद्ध में प्रकाशित भारत सरकार स्वास्थ्य और परिवार कल्याण मंत्रालय (स्वास्थ्य विभाग) की अधिसूचना संख्या का. आ. 1505, दिनांक 25 अप्रैल, 1988 में:—

(i) “डाक्टर आफ मेडिसिन (विकलांग विज्ञान)” के स्थान पर “मास्टर आफ सर्जरी (विकलांग विज्ञान)” पढ़ें।

(ii) “एम डी (विकलांग विज्ञान)” के स्थान पर “एम. एम (विकलांग विज्ञान)” पढ़ें।

[संख्या बी.-11015/7/88-एम ई (पी)]

एच. एन. यादव, डेस्क अधिकारी

CORRIGENDUM

S.O. 2302.—In the notification of Government of India, Ministry of Health and Family Welfare (Department of Health) No. S.O. 1505 dated 25th April, 1988 published in the Gazette of India on 14th May, 1988, relating to Osmania University:—

(i) for “Doctor of Medicine (Orthopaedics)” read “Master of Surgery (Orthopaedics)”

(ii) for “M.D. (Ortho)” read “M.S. (Ortho)”.

[No. V. 11015/7/88-ME(P)]

H. N. YADAV, Desk Officer

नागर विमानन मंत्रालय

नई दिल्ली, 10 अगस्त, 1990

का. आ. 2303—पवन हंस लिमिटेड के ज्ञापन और संस्था अन्तर्निर्णय के अनुच्छेद 40 द्वारा प्रदत्त शक्तियों का उपयोग करने हुए राष्ट्रपति पवन हंस लिमिटेड में एयर कमांडर सी. एम. सिंगला को 8500-9500 रुपये के अनु-सूची “बी” वेतनमान में तत्काल खपाय जाने के आधार पर उनके द्वारा कार्यभार ग्रहण करने की तारीख से पांच वर्ष की अवधि के लिए प्रबंध निदेशक के पद पर नियुक्त करने हैं।

[संख्या एवी-13015/42/89 - एसी (बी एल)]

नसीब सिंह, अवर सचिव

MINISTRY OF CIVIL AVIATION

New Delhi, the 10th August, 1990

S.O. 2303.—In exercise of the powers conferred by Article 40 of the Memorandum and Articles of Association of Pawan Hans Limited, the President is pleased to appoint Air Cmdr. C. M. Singla as Managing Director, Pawan Hans Limited, in Schedule ‘B’ Scale of pay of Rs. 8,500—9,500 for a period of five years from the date of his assuming charge of the post, on immediate absorption basis.

[No. Av. 13015/42/89-AC(VI)]

NASIB SINGH, Under Secy.

श्रम मंत्रालय

नई दिल्ली, 6 जुलाई, 1990

का. आ. 2304.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार समता कोलियरी आफ मै. ईस्टर्न कोल फील्ड्स लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-8-90 को प्राप्त हुआ था।

MINISTRY OF LABOUR

New Delhi, the 6th July, 1990

S.O. 2304.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Samla Colliery of M/s. Eastern Coalfields Limited and their workmen, which was received by the Central Government on the 3-8-90.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT CALCUTTA

Reference No. 17 of 1985

PARTIES:

Employers in relation to the management of Samla Colliery of M/s. Eastern Coalfields Ltd.

AND

Their workmen

APPEARANCES:

On behalf of employers—Mr. P. Banerjee, Advocate.

On behalf of workmen—None.

STATE : West Bengal.

INDUSTRY : Coal.

AWARD

By Order No. L-19012(61)/84-D.IV(B) dated 1st May, 1985, the Government of India, Ministry of Labour referred the following dispute to this Tribunal for adjudication:

“Whether the management of Samla Colliery of Eastern Coalfields Ltd., P.O. Pandaveswar, Dist. Burdwan (WB) was justified in not regularising the following workmen as clerks earlier than 1-1-83”.

(i) Sibasankar Chatterjee

(ii) Prasanta Kumar Misra

- (iii) Falcik Badyakar
- (iv) Pasupati Singh
- (v) Ganga N. Bhattacharjee
- (vi) Sadananda Badyakar
- (vii) Saful Alam
- (viii) Laxmi Ghosh
- (ix) Ramakant Choubey
- (x) Tribuhan N. Singh.

If not, to what relief are the workmen concerned entitled?"

When the case is called out today for hearing, Mr. P. Banerjee, Advocate appears for the employer. Nobody appears for the workmen. A petition has however been received from the union stating therein that the union is not interested to proceed with the present reference and the union has prayed for a "No Dispute Award". Mr. Banerjee appearing for the employer has no objection in this regard.

3. On due consideration of the petition of the union as well as the submission of Mr. Banerjee appearing for the employer, I find that this Tribunal has no other alternative but to pass a "No Dispute Award" and accordingly a "No Dispute Award" is passed.

This is my Award.

Dated, Calcutta,

The 25th July, 1990.

SUKUMAR CHAKRAVARTY, Presiding Officer

[No. L-19012/61/84-D.IV(B)]

नई दिल्ली, 10 अगस्त, 1990

का. आ. 2205—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वये में, केन्द्रीय सरकार सियुली कॉलरी (आफ) मै. ईस्टर्न कोलफील्ड्स लि. के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-8-90 को प्राप्त हुआ था।

New Delhi, the 10th August, 1990

S.O. 2305.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Asansol as shown in the Annexure in the industrial dispute between the employers in relation to the management of Siduli Colliery of M/s. Eastern Coalfields Ltd. and their workmen, which was received by the Central Government on 9-8-1990.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL ASANSOL.

Reference No. 5/88

PARTIES :

Employers in relation to the Management of Siduli Colliery of M/s. Eastern Coalfields Ltd.

AND

Their Workman.

APPEARANCES :

For the Employers—Sri P. K. Das, Advocate.

For the Workman—Sri Manoj Mukherjee, Advocate.

INDUSTRY : Coal

STATE : West Bengal

Dated, the 30th July, 1990

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by Clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide Ministry's Order No. L-24012(219)/87-D.IV(B) dated the 28th January, 1988.

SCHEDULE

"Whether the action of the management of Siduli Colliery of M/s. Eastern Coalfields Ltd., P.O. Siduli, Distt. Burdwan in dismissing Sri Durjan Turi, Fitter, is justified? If not, to what relief is the concerned workman entitled?"

2. Sri Durjan Turi the concerned workman was a Fitter in Siduli Colliery under Eastern Coalfields Ltd. He absented from duty without taking any leave or permission from 11-10-84 to 26-12-84. So Durjan Turi was served with a chargesheet which reads as follows :

"To

Sri Durjan Turi
Fitter.

Siduli Section Siduli Colliery

You are hereby asked to show cause within 48 hours from the time of receipt thereof why disciplinary action should not be taken against you for the following misconduct.

You absented yourself from your duty since 11-10-84 to 26-12-84 without permission from and information to the competent authority.

You are hereby charged under section 17(i)(h) of the Model Standing Order applicable to this establishment.

Any representation that you may take in this connection will be taken into consideration before Passing Order.

Sd/- Illegible
Agent/Manager
Siduli Colliery."

In reply to that chargesheet Durjan Turi submitted his written explanation which reads as follows :

"To

The Manager,
Siduli Colliery.

Re : Reply about charge-sheet

Respected Sir,

I, the worker of Siduli Colliery (Fitter) beg to approach your consideration that you issued me chargesheet against my unauthorised absent on and from 11-10-84 to 26-12-84.

During that days I was under treatment owing to illness at home. The medical certificate produced to S.P.O.

I, therefore, request for the favour of your sympathetic consideration to allow me to join duty and obliged.

Thanking you,

Yours faithfully,
L.T.I.
Durjan Turi
Fitter (Siduli)"

He submitted along with his reply an outdoor ticket showing his treatment from 5-10-84 to 10-10-84 and a medical certificate granted by one Nirmal Kumar Das, L.M.F., Ex-Sr. Medical Officer of Sankarpur Colliery stating that Durjan Turi had been suffering from Infective Hepatitis with Anemaa and general debility from 11-10-84 to 26-12-84.

3. The management was not satisfied with the explanation submitted by Durjan Turi. So there was domestic enquiry against Durjan Turi. Sri J. B. Mondal, Office Supdt. (P) of Kenda Area was appointed as Enquiry Officer. After observing all the legal formalities he held the domestic enquiry and found Durjan Turi guilty of the charge levelled against him. In due course the management dismissed Durjan Turi from service with effect from 5-4-85.

4. A dispute was raised by the Union on behalf of the concerned workman Sri Durjan Turi. But the attempts of conciliation failed. The matter was sent to the Ministry of Labour, Government of India. In due course the Ministry of Labour has referred the matter to this Tribunal for adjudication.

5. In a case like the present one we are to see first whether the domestic enquiry was properly and fairly held. The Colliery authority examined Sri J. B. Mondal, O.S. in this case and he was cross-examined by the other side. After considering the materials on record and the facts and circumstances, this Court has found that the domestic enquiry against Durjan Turi was properly and fairly held by duly appointed Enquiry Officer who gave all the possible opportunity to Durjan Turi and Durjan Turi also participated in the domestic enquiry. This Court has found that there was no violation of principles of natural justice in holding the domestic enquiry (vide Order dated 29-6-90).

6. Now we are to see in view of the provisions laid down in Section 11-A of the Industrial Disputes Act, 1947 whether the evidence on record are sufficient to come to a finding as arrived at by the learned Enquiry Officer. Admittedly Durjan Turi was absent from duty without taking any leave or permission or giving any sort of intimation to the authority for the period commencing from 11-10-84 to 26-12-84. The learned Lawyer for the Union has urged before me that the Enquiry Officer has failed to consider the medical certificate submitted along with the explanation of Durjan Turi. It was a case of Durjan Turi before domestic Tribunal that from 5-10-84 to 26-12-84 he was ill. But in the original written statement submitted by Durjan Turi in this Court the story of his illness did not find any place. He has given a new story in the original written statement.

Be that as it may, the learned Lawyer for the Union has urged before me that it is a clear case of unfair labour practice. He has urged before me that the Colliery authority must behave as a model employer. With due respect to his contention I must say surely the authority must behave as a model employer but we must expect that the workman also will reciprocate at the same time. In the constitution the fundamental duty has been incorporated like fundamental rights. The learned Lawyer for the Union has urged before me that the concerned workman is an illiterate man and so he did not inform the authority about his illness. But I am unable to brush aside the matter very lightly. Durjan Turi is a permanent employee. So it was his duty to inform the management about his illness. Durjan Turi was examined as a witness in the domestic enquiry. We find from his statement that he visited Sankarpur Colliery for his treatment by Rickshaw. But he did not go to Siduli Colliery and according to him he did not think it necessary. I find from his statement that he was not unable to go to his authority at least to give the information about his absence.

7. So considering all the facts and circumstances of the present case and the evidence on record, I find that the learned Enquiry Officer rightly found him guilty of the charge levelled against Durjan Turi.

8. Now comes the question of punishment. In this case Durjan Turi has been dismissed from service for unauthorised absence. He was a permanent workman. He is a

family man. There is no black spot in the service career of Durjan Turi.

9. So considering the facts and circumstances, it must be held that surely he had some reasonable cause for absentsing himself from duty. At the present time dismissal of a workman from service is worse than capital punishment. Hon'ble Supreme Court has held that the capital punishment should be awarded in a rare of the rarest cases.

10. Considering the principles of natural justice, I find that the punishment of dismissal is too harsh punishment in a case like the present one. So the same cannot be sustained and must be set aside. Considering the nature of the case and the facts and circumstances, I find that Durjan Turi must be reinstated in service with 75% of back wages with immediate effect to give him an opportunity to reform himself and to prove to be a disciplined employee of the Company.

11. The learned Lawyer for the Union has pointed out in this case that on 27-12-84 Durjan Turi came to join his service, but he was not allowed to join and after domestic enquiry he was dismissed from service with effect from 5-4-85. He has urged before me that according to rules either Durjan Turi was to be placed under suspension for that period or to be allowed to work in the company. But the authority did not follow either of the two. He has urged before me that this must be treated as unfair labour practice. With due respect to his contention I like to say that it may be a case of mistake. There is nothing to show that Durjan Turi made any prayer for any subsistence allowance for the said period.

12. In the result I find that the action of the management of Siduli Colliery of Eastern Coalfields Ltd., in dismissing Sri Durjan Turi, Fitter is not justified. Sri Durjan Turi the concerned workman shall be reinstated in service with immediate effect. He should be paid 75% of his back wages from 27-12-84. The period of his absence from 11-10-84 to 26-12-84 shall be treated as leave without pay.

This is my award.

N. K. SAHA, Presiding Officer
[No. L-24012/219/87-D.IV (B)]
RAJA LAL, Desk Officer

नई दिल्ली, 3 अगस्त, 1990

का. आ. 2306—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डी. आर. एम., उत्तर गेजेटे, लखनऊ के प्रबन्धतंत्र से संबंधित निर्यातकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-8-90 को प्राप्त हुआ था।

New Delhi, the 3rd August, 1990

S.O. 2306.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of DRM, Northern Railway Lucknow and their workmen, which was received by the Central Government on 3-8-90.

ANNEXURE

BEFORE SHRI ARJAN DEV PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
KANPUR

Industrial Dispute No. 41 of 1989

In the matter of dispute between :

The Divisional Secretary URKU 96/196 Roshanbajaj
Lane Caneshani Lucknow.

AND

Sr DOS Northern Rly., Lucknow

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-41012/77/87-D.II/B dt. 1-2-89, has referred the following dispute for adjudication to this Tribunal :

KYA DIVISIONAL RAILWAY MANAGER UTTAR RAILWAY LUCKNOW KI SHRI J S GUPTA ASM KO 7-10-85 SE SEWA NIVRAT SAMAYA POORI SEWA NIVRAT KARNE KI KARWAHI NAYAYOCHIT THI? YADI NAHI TO SAMBANDHIT KARAMKAR KIS ANUTOSH KA HAQDAR HAI?

2. The workman's case is that he was appointed ASM on 15-6-54 and retired on 7-10-85 as ASM 'C' Class. At the time of retirement his scale of pay was Rs. 455-700 and his basic pay was Rs. 640 per month. He alleges that on 27-9-84, he reported sick. On resumption of duty he was sent by Station Suptd. Lucknow to see Sr DSO on 4-7-85. He was kept waiting for orders upto 7-10-85 thereafter he was retired under duress by Sr. DS Lucknow. In the ordinary course he would have retired on 14-7-91, on attaining the age of superannuation. The workman also alleges that he had filed a petition under sec. 33C(2) ID Act in this Court for recovery of wages for the period 27-9-84 to 7-10-85 it gave rise to LCA No 618 of 85. In the said case he succeeded. Annexure 1 to the claim statement is the copy of order dt. 14-5-87 passed in the said case. He has, therefore, prayed that the order of retirement made effective w.e.f. 7-10-85 be set aside and he be given the benefits of unbroken service upto the date of his superannuation.

3. The management plead that the workman was retired from service on 7-10-85 by the Rly Administration on his request. The management deny rest of the allegations made by the workman, with regard to circumstances under which his retirement was ordered. The management further plead that the workman was under the sick report of a Private Medical Practitioner from 27-9-84 to 30-4-84, and under Rly Doctor from 1-5-85 to 1-7-85. The workman after obtaining certificate of fitness from the Rly Doctor approached the SS Lucknow on 2-7-85 and the SS Lucknow forwarded him to Sr DSO on 3-7-85. When it was informed by the workman to the Sr DSO that he had also submitted his application dt. 30-5-85 for voluntary retirement to the SS Lucknow, the Sr DSO ordered that his retirement application be put up before him. The competent authority accepted the workman's request for voluntarily retirement and informed about it to the workman by means of letter dt. 3-9-85 which was received by the workman on 12-9-85. In the said letter it was clearly mentioned that the workman stood voluntarily retired on the Afternoon of 7-10-85. In the circumstances the question of his actual date of superannuation does not arise. As regards the order passed in LCA No. 618 of 1985, the management plead that the said order has been challenged by the Rly Administration by means of a Writ Petition which is still pending in the Lucknow Bench of the Hon'ble High Court of Allahabad. While passing the order in LCA No 618 of 85 this court (my learned predecessor Sh. RB Srivastava) has observed that the workman would not be entitled to recover the amount until his income tax dues were satisfied. The management also plead that the workman had been doing private business during his service period and consequently very frequently he reported sick under Private Medical Practitioner or took leave quite often and failed to discharge his duties as a Rly Servant with sincerity & honesty. The income tax authorities had also sent a notice to the Rly Administration directing that the income tax dues amounting to Rs. 31845 would be made from the wages of the workman. The workman has thus not come to the court with clean hands. Lastly, it is pleaded by the management that Uttar Railway Karamchhari Union is not a recognised Union nor a registered Trade Union. There is no post of Zonal Working President in the alleged Union. Even the workman does not come within the definition of workman as given under sec. 2(s) of I.D. Act.

4 In the rejoinder it is pleaded that the Sr. DOS compelled the workman to sign an antedated letter of voluntary retire-

ment and forced him to accept retirement under threat of dismissal in accordance with Rule 14(2) of the Rly. Servant Disciplinary & Appeal Rules, 1968. As regards income tax dues it is alleged that no income tax is due against the workman. As regards the order passed in LCA No 618 of 1985, it is pleaded that the filing of the Writ Petition is nothing but a misconceived action on the part of the management. With regard to Uttar Rly Karamchhari Union it is alleged that the recognition by the Administration is immaterial. Such pleas as have been raised in the W.S. by the management could have been raised at the conciliation stage and the decision of the appropriate Govt. obtained.

5. In support of his case, the workman has filed his own affidavit and some documents. On the other hand, in support of their case, the management have filed the affidavit of Sh. Y. K. Singh Sr. Clerk and a few documents.

6. I may state here that on 11-12-89, the workman moved an application for summoning of 4 documents, from the management. The application was taken up for disposal on 12-3-90. The management filed photostat copies of documents mentioned at serial Nos. 2 and 3 of the workman's application besides one more document which is the copy of workman's application dt. 3-9-85 addressed to the DRM Lucknow.

7. All the three documents bears the necessary certificate under the Indian Railway Act. They have been marked as Ext. M-1, M-2 and M-3.

8. Ext. M-2 is the photostat copy of workman's application dt. 30-5-85 seeking voluntary retirement w.e.f. 7-10-85. The question for consideration is whether it was obtained under duress by the Sr. DSO as alleged by the workman or it was made by the workman of his own free will. No doubt in this case, the management have not examined, the Station Suptd. Lucknow and the then Sr. DSO but that will not matter much. There is famous saying that men may lie but the circumstances do not. What I mean to say that the conduct of the man in circumstances like the present one he will subsequent conduct will throw a great light on the nature of action of a person. It is not necessary in such cases to call very Senior Officers to rebut the case set up by a party.

9. The case set up by the workman is that application for voluntarily retirement was obtained by him under duress by Sr DSO.

10. In this connection first of all I would like to refer to this conduct subsequent to the making of application for voluntarily retirement. In para 3 of his statement in his cross examination, the workman says that against the highhandedness of the Sr. DSO he did not make any complaint to any senior officer. In the same para he admits that he never wrote to the Sr. DSO complaining about his highhandedness in the matter. In para 4 of his statement in cross examination he admits that he has no quarrel with the Sr DSO. Even he had no ill will with the Sr. DSO. In the same para he says that about the Highhandedness of the Sr. DSO he did not give any notice to any officer of the Railway. In para 6 of his statement in cross examination he says that after 4-7-85 he did not write to any officer of the Rly. that he was withdrawing his application to voluntarily retirement. Lastly Ext. M-1 is the copy of application dt. 5-9-85 from the workman to the DRM. Para 2 of it which reads as under is very relevant—

I had also submitted an application for voluntarily retirement on 11th July, 1985. The learned Sr. DSO promised to accept the same but did not decide the matter of giving him duty before proposed voluntarily retirement.

There is nothing in this application to show that application for voluntarily retirement was obtained from him by the Sr. DSO under duress as is now alleged by him. The only defence is that the application for voluntary retirement was moved by him on July 11th, 1985. The only grievance which he made through this application was that

Sr. DSO to whom he had made his application for voluntary retirement had not decided the matter of giving duty before the proposed voluntary retirement. He therefore prayed that he paid salary for the months of July and August 1985. In this connection I would also like to refer to the following lines appearing in the copy of order dated 14-5-87 passed by my learned predecessor in LCA No. 618 of 85—

The workman had filed the application with the Payment of Wages Authority on 5-9-85 but he has not mentioned that the same was obtained under duress.

Although my learned predecessor believed the workman's case that application for voluntary retirement was obtained from him by the Sr. DSO under duress, atleast one thing goes out from the above observation that no such plea that application for voluntary retirement was obtained from him under duress by the Sr. DSO was even raised by him before the Payment of Wages Authority.

11. As earlier remarked it is the subsequent conduct regarding an action which is challenged that is material. The above facts and circumstances go to show that his was voluntarily act. Had it been not so he, he would have surely adopted one of the following methods:—

1. Written to the Sr. DSO explaining circumstances under which the application for voluntary retirement was obtained from him.

Made a complaint to the officer senior to Sr. DSO about the alleged misconduct of Sr. DSO in obtaining from him such an application.

3. Atleast made a specific mention of this fact in his application when it was moved before the payment of Wages Authority and in his letter dt. 5-3-85. Copy Ext. M-1, addressed to the DRM NR Lucknow.

4. Moved an application withdrawing his application for voluntary retirement.

According to the workman he was to retire on 14-7-91 meaning thereby that he had 6 years of more service left to his credit. Thus he had a very heavy stake. Had the application for voluntary retirement been obtained from him under duress he would have surely adopted one or more of the above methods in order to disown his application for voluntary retirement.

12. There is yet another circumstances which show that even on 3-7-88 or 4-7-88 he was not medically fit. In para 3 of his statement in cross examination he has deposed that from a year before 4-7-85 he had been ill. Then in para 4 of his statement in cross examination, he has deposed that even after 4-7-85 he remained ill and has been ill. What does all this mean? All this clearly mean that he never recovered from his illness. In these days it is not difficult to obtain a medical certificate of any kind from such doctors as are unscrupulous. So because of the continued illness, he must have withheld, it could be better seek voluntary retirement.

13. There is a third circumstances which also believe the workman's case. With his affidavit he has filed copies of note sheets which were furnished to him by the management when the matter was pending before ALC(C) Lucknow. About these documents he has deposed in his examination-in-Chief. It appears from document no. 1 that on 3-7-85, before the Sr. DSO, the workman claimed to have submitted his retirement application. Such a note appears on the note sheet. It further appears that the Sr. DSO directed that his retirement application be put up before him. Had the Sr. DSO obtained the application for voluntary retirement from the workman forcibly he would not have been made such an endorsement on the note sheet. Further he would not have asked him to put the date on the application as 30-5-85.

From Ext. M-3 which is the copy of order dt. 6/9-8-85, it is clear that the workman was retired from the afternoon of 7-10-85. If it had been otherwise, the Sr. DSO could have retired him from 1st September, 1985 taking the 3 months period from 30-5-85.

14. I may state here that while deciding the reference I am not bound by the findings arrived at by my learned predecessor in LCA No. 618 of 1985 specially when the matter is still subjudice on account of pendency of Writ Petition the Lucknow Bench of the Hon'ble High Court of Allahabad.

15. Hence, it is held that the action of the management in retiring the workman from the afternoon of 7-10-85 on the application of voluntarily retirement of the workman was justified. The workman is entitled to no relief.

16. Reference is answered accordingly.

ARJAN DEV, Presiding Officer

[No. L-41012/77/87-D.II(B)]

K.V.B. UNNY, Desk Officer

नई दिल्ली, 7 अगस्त, 1990

का. आ. 2307 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में मनीलाल पटेल एण्ड को, बम्बई के प्रबन्धन से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, सं 1, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-8-90 को प्राप्त हुआ था

New Delhi, the 7th August, 1990

S.O. 2307.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Manilal Patel & Co., Bombay and their workmen, which was received by the Central Government on 6th August, 1990.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT BOMBAY

(Presiding Officer, Justice S. N. Chittri)

Reference No. CGIT-32 of 1983

PARTIES :

Employers in relation to the Management of Manilal Patel & Co., Bombay.

AND

Their Workmen.

APPEARANCES :

For the Management—Shri Desai, Advocate.

For the Workman—Workman in person and with Sawant, Asst. Secretary of the Transport & Dock Workers' Union, Bombay.

INDUSTRY : Ports & Docks. STATE : Maharashtra. Bombay, the 30th day of July, 1990

AWARD

The Central Government has referred the following industrial dispute to this Tribunal under section 10 of the Industrial Disputes Act, 1947, for adjudication :—

“Whether the action of the management of M/s. Manilal Patel & Co., Bombay, operating in the Major Port of Bombay in dismissing from service Shri A. N. Haldankar, Customs Clerk, w.e.f. 5th September, 1986, is justified? If not, to what relief the workman is entitled to?”

2. The Management and the workman have amicably settled the matter on terms stated in the annexure to this award. I have satisfied myself that the workman has entered the settlement voluntarily, and it is in his interest and conducive to the industrial peace. I accept the settlement. Award in terms thereof. No order as to costs.

S. N. KHATRI, Presiding Officer,
[No. L-31012/11/87-D.IV(A)/D.III(B)]

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT BOMBAY

Reference CGIT No. 32 of 1988

Employers in relation to the Management of M/s. Manilal Patel & Co., Bombay, (Clearing Department).

AND

Their workmen.

MAY IT PLEASE THE HON'BLE TRIBUNAL :

The Parties in the above matter have discussed the above matter and have arrived at an amicable settlement on the following terms.

TERMS OF SETTLEMENT

1. The Workman hereby agrees to submit his resignation to the firm on the date of settlement and the Management agrees to accept the same.
2. On resigning from the services of the firm, the Management agrees to pay an amount of Rs. 80,000 (Rupees Eighty thousand only), the details of which are shown in separate receipt, in full and final settlement of all the claims of the workman including his claim for reinstatement, re-employment, gratuity, provident fund, etc.
3. On resigning the workman from the services of the firm, the Management agrees to withdraw the dismissal order dated 5th September, 1986 issued to the workman and after accepting the resignation, to issue service certificate to the workman.
4. The workman hereby declares that he has accepted the amount of Rs. 80,000 (Rupees Eighty thousand only) from the Management in full and final settlement of all his claims including his claim in the above reference.

The Parties, therefore, pray that the Hon'ble Tribunal may be pleased to pass an Award in terms of the above settlement.

Bombay,

Dated : 30-7-1990.

Sd/-

for M/s. Manilal Patel & Co.
(Clearing Department)

Sd/-

Workman

WITNESSES :

(1) Sd/-

(2) Sd/-

RECEIPT

Received from Messrs Manilal Patel & Co. (Clearing Department) an amount of Rs. 80,000 (Rupees Eighty Thousand Only) being legal dues as shown below on my resigning from the services of the Company. I say and declare that I have received the following amount by cheques today and I have no dispute, claim of whatsoever nature either against the Company or its partner in respect of my reinstatement, re-employment, Payment of Gratuity, Provident Fund have Bonus etc. in future.

DETAILS OF LEGAL DUES RECEIVED

1. Gratuity	17,507.00
2. Leave Wages	5,413.00
3. Bonus	192.00
4. Provident Fund	37,296.00
5. Medical Allowance	Nil
6. Salary	Nil
7. Ex-gratia	19,592.00
Total	Rs. 80,000.00

Bombay,

Dated : 30-7-1990.

Witnesses :

(1) Sd/-

(2) Sd/-

Signature of the workman

नई दिल्ली, 8 अगस्त, 1990

का.प्रा.2308.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, किन्द्रीय सरकार भिलाई स्टील प्लांट और उनके ठेकेदारों के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-8-90 को प्राप्त हुआ था।

New Delhi, the 8th August, 1990

S.O. 2308.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Bhilai Steel Plant and their workmen which was received by the Central Government on 7-8-90.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(5)/1981

PARTIES :

Managing Director, Bhilai Steel Plant, Bhilai, M.P.,
Contractor/Labour Cooperative Societies in Dallara-

Jhara Iron Ore Group of Mines of Bhilai Steel Plant viz. (1) M/s. Codegasa Mining Co. 1, P.O. Dallirajhara, Durg (M.P.); (2) Shri Pukhraj Jain, Contractors, P.O. Dallirajhara (M.P.); (3) The President, M/s. Rajhara Truck Transport Sahakari Samity, P.O. Dallirajhara, District Durg (M.P.); (4) M/s. Shyam Sunder Son, Gangpara, Durg (M.P.); (5) M/s. Mahabir Transport Co. P.O. Dallirajhara, Durg (M.P.); (6) M/s. Eastern Trading Corporation, P.O. Dallirajhara, Durg (M.P.); (7) M/s. Ajya Transport Co. P.O. Dallirajhara Durg (M.P.); (8) M/s. Jay Transport Co., P.O. Dallirajhara, Durg (M.P.); (9) M/s. R. M. Shukla, PO Dallirajhara, District Durg (M.P.); (10) M/s. Life Tube Well Pvt. Ltd., P.O. Dallirajhara, Durg (M.P.); (11) M/s. Ajya Drilling and Transport Co., P.O. Dallirajhara (M.P.); (12) M/s. Pukhraj Jain, P.O. Dallirajhara, District Durg (M.P.); (13) The President, M/s. Jharandalli Khadan Mazdoor Sangh Sahakari Samity Ltd., P.O. Dallirajhara, District Durg (M.P.); (14) M/s. Upadhyaya and Co. P.O. Dallirajhara, Durg (M.P.); (15) M/s. Commercial Transport Co., P.O. Dallirajhara, Durg (M.P.); and (16) M/s. Kalayan Traders, P.O. Dallirajhara, District Durg (M.P.)

AND

Their Workmen, represented through the Secretary, Samyukta Khadan Mazdoor Sangh, P.O. Dallirajhara, District Durg (M.P.)

APPEARANCES :

For Workmen/Union—Shri C. R. Bakshi.

For Management (Bhilai Steel Plant)—Shri D. C. Henri, Asstt. Chief Law Officer.

For Contractors—Shri P. S. Nair, Advocate.

INDUSTRY : Iron Ore Mining DISTRICT : Durg (M.P.)

AWARD

Dated, the 25th July, 1990

This is a reference made by the Central Government, Ministry of Labour, vide its Notification No. L-26011/10/80-D.II (B) dated 21st January, 1981, for adjudication of the following dispute mentioned under the Schedule to the reference —

SCHEDULE

"Having regard to the fact that the Principal Employer, viz., Management of Bhilai Steel Plant makes payment of leave wages under the Mines Act and the provident fund contributions under the Employees Provident Fund Act in respect of workmen employed in Dallirajhara group of Mines through the successive contractors, whether they should also be held liable for ensuring continuity of service and consequential terminal benefits in the form of payment of retrenchment compensation and gratuity to such workers."

2. Undisputed facts of the case are that the Bhilai Steel Plant, Steel Authority of India (hereinafter referred to, as the Company or Management) has captive mines of Rajhara Dalli Group of Mines where the work of raising of iron ore / fines and its transportation is carried on contract basis, on a given contract to the Labour Cooperative Societies formed under the M.P. Cooperative Societies Act, (hereinafter referred to as the Societies) as well as to private Contractors. The workmen who are engaged to execute these contracts are said to be Share Holders of such Cooperative Societies.

3. It is also not disputed that various contractors worked from time to time for raising of Iron Ore and its transportation. It is also not disputed that earlier drilling was also done on the contract basis in the said mine, but it was subsequently abolished vide order of the Government and the work was departmentalised. During departmentalisation of this work the workers working with the Contractors were

also absorbed. It is also not disputed that the following fringe benefits to the workmen employed by the Contractors were paid by the Company :—

- (a) Profit Sharing Bonus as per Statute to the eligible workmen.
- (b) Wages for the National Holidays i.e. 15th August, 2nd October, and 26th January.
- (c) Leave with wages as per Mines Act 1952 and Rules framed thereunder to the eligible workmen.
- (d) Safety appliances e.g. Helmets, Shoes, Goggles to the entitled workmen.
- (e) Maternity benefits to the eligible workmen as per Maternity Benefits Act and Rules.
- (f) Company's Share of the C.P.F. as per the Provident Fund Act to the entitled workmen.

4. It is also not disputed that though the contractors changed from time to time but almost all the workmen worked with the changing contractors. The term of the contract used to be for two years.

5. The case of the Union is that the workmen employed in Dallirajhara Group of Iron Ore Mine under Contractor/ Cooperative Societies have put up nearly 15 years of service as raising mazdoors, transport mazdoors and ancillary job of truck drivers, helpers, office clerks, supervisors, etc. About 3500 of them were departmentalised as regular employees of the Bhilai Steel Plant in 1972 who is the principal employer. Names of the employees of the Contractors/Co-operative Societies were maintained by the principal employer and their registration continued and would not end with the time bound contract. In other words, same registration continues with the successive contractors which follows that continuity of service of workmen was maintained inspite of the changes of the contractors. In fact, these workmen are governed by the Standing Orders for the Mines certified for the whole of the establishment of Dalli Rajhara Group of Iron Ore Mines as applicable to the direct employee of the Bhilai Steel Plant. Thus the service conditions of the workmen under Contractors/Societies in Dalli Rajhara Group of Iron Ore Mines of the Company are controlled and regulated by it. Inter se seniority list of these concerned workmen employed under different Contractors/Societies had been prepared by the management at the time of the departmentalisation of 3500 workmen. The Company also made payment of Transport subsidy, Mines Allowance, House Rent Allowance and Safety Appliances through the successive contractors.

6. The benefits, rates of wages, norm of work were to be determined by the Company from time to time. The Contractors/Societies act as agency for implementation of the contract/work order within the limited conditions laid down by the Company for which these agencies get supervision charges of percentage of the total value of work.

7. By the agreement with the Union the Company had agreed long back to ensure employment to the workman of outgoing contractors without discontinuing their service and carrying forward of their leave wages, provident fund, bonus etc. This practice is continuing from the beginning with exceptions of uncalled for retrenchment notices served by the Contractors on some occasions. When a large number of workman under the Contractors/Societies were departmentalised by the Company in 1972 and thereafter their services were treated by the Company as discontinued neither consequential terminal benefits, nor continuity of services for their past services were ensured by the Company, thus putting them into loss in respect of gratuity payment and/or other terminal benefits. In the same way, large number of workmen who are still employed by the Contractors/Societies have been deprived of the benefits of continuity of service and consequential benefits in the form of payment of retrenchment compensation and gratuity whenever such situations arise. Many such workmen were terminated due to superannuation or for other reasons and many died while in service but they have been deprived of such terminal benefits as mentioned above. In view of the above and also under the provisions of Contract Labour (Regulation

and Abolition) Act, 1970. It is the liability of the Company to ensure continuity of service and consequential terminal benefits in the form of retrenchment compensation and/or gratuity payment to the workmen under the Contractors/Societies in all Rajhara Iron Ore Group of Mines whether they are still employed by them or departmentalised by the Company or their services have been terminated in the meanwhile. It was accordingly prayed to answer the reference in affirmative and to award relief to the workmen already departmentalised and those still working under Contractors/Cooperative Societies and also to those who left the service on termination, death, superannuation or for other reasons.

8. In the rejoinder the Union has further stated that these contractors/Societies are not free to employ any workmen of their choice for the execution of the contract so awarded. They have to engage only those workmen whom Company directs to so engage. The workmen are of the principal employer for all purposes and the right exists in the Company to supervise and control the work done by these workmen not only in the matter of directing what work they are to do but also the manner in which they shall do the work. It is the Company which determines the number of workmen to be engaged for a particular work by conducting industrial engineering study for fixation of norm of work on piece rate system. For every item of work the norms of piece rate per man shift are decided as per instructions of the Company. When a particular work is not available to group of workmen the Company directs the Contractors/Societies to provide them alternative job or pay full back wages as per Scheme prepared and introduced by the Company under agreement with the Unions. The quality control during the work in progress is exclusively in the hands of the supervisors of the Company. Thus the existence of the Contractors/Societies in between the Company and the workmen is only in the form of intermediate agency to execute limited task assigned to them by the Company. That apart, the Company has full economic control over these workmen, subsistence, skill and continued employment. Wage rates of the workers are determined by the Company by various settlements from time to time. The work is of perennial nature. Privilege of retrenching the workmen or otherwise has actually been enjoyed by the Company. Thus the Company being the principal employer is liable for giving the redress.

9. The case of the Company in brief is that besides mechanised work in both Dalli and Rajhara Mines which is done departmentally, some mining operation is done manually through Contractors/Societies. The Contractors/Societies employ their own workers to execute the contract. The operation of such contract had never been more than two years in any case and therefore there had been no continuous employment within the meaning of Section 25-B of the I. D. Act. The Contractors/Societies, who employ the workers to execute the contract, are the employees within the meaning of Section 2(g) of the I. D. Act. There is no relationship of employer and employee between the workmen and the Company. The Company had to maintain Form B Register and perform various formalities under various Labour laws. The departmentalisation was done in accordance with the policy of the Company and it was decided to departmentalise the raising work in Mahamaya Mines which was recently opened and at Aridongri Mines and also the work of loading into wagons in Dalli Rajhara Loading Sidings. For these jobs the Company recruited workmen from amongst the workmen who were working with the Contractors/Societies. Thus a total number of 3374 workmen were employed by the Company in the year 1972-73.

10. Each contract contains the rights and obligations of the respective parties. Whenever the Company undertakes to pay the fringe benefits to the workers of such Contractors/Societies in addition to the contract rate such obligations are discharged by the Company. Only the attendance of the workers is checked by the time keeping department of the Company as required under the Mines Act in order to ascertain the names of the persons who may be working in the mines on a particular date. The Contractors/Societies are supposed to have their own Standing Orders under

the Industrial Employment (Standing Orders) Act and the service conditions are regulated by the Contractors/Societies. The Company does not maintain any seniority list of workmen working with the Contractors/Societies.

11. Wages, norms of work and the terms and conditions of employment are settled between the workmen and their employer viz. the Contractors/Societies. They are not the Agent of the Company. They are not paid the supervision charges, but they get in accordance with the contract rate. Granting of benefits of continuity of service to the Contractors workmen does not arise. There could not be and is no agreement between the Company and the Unions to this effect. The workmen employed by the Company on departmentalisation joined the establishment of the Company on their volition and naturally their services with their previous employers came to an end. The question of payment of terminal benefits, therefore, does not arise. If at all, this is the dispute between the workmen and their previous employer. The retrenchment compensation, gratuity and other terminal benefits are payable to the eligible workmen by their employers subject to fulfilment of statutory requirements. There is no reason for the Union to be apprehensive that these will not be paid by the respective employer. The Union can certainly take up specific case for redressal. The Union is putting its claim on presumption and surmises. The provisions of Contract Labour (Regulation and Abolition) Act 1970 are not applicable in these proceedings under the I.D. Act. Moreover, under the said Contract Labour (Regulation and Abolition) Act 1970 the principal employer has limited liability and the relief sought by the Union viz., grant of continuity of service to the contractors workmen is outside the purview of the principal employer.

12. As per Agreement detailed in the statement of claim it was the responsibility of the Contractors/Societies to comply with the provisions of law. Parties listed at Serial No. 4, 9, 12 and 18 are the Raising Contractors/Societies. No retrenchment has taken place in these establishments. Therefore no question of payment of retrenchment compensation to these workers arise.

13. So far as the parties listed at Sl. No. 3, 5, 6, 7, 8, 10, 11, 13, 14, 15 and 16 are concerned; they were awarded the transport contracts. The duration of their contract is mentioned below against their names :—

Sl. No.	Name of the party	Period of contract
3.	M/s. Kondekasa Mining Co. Dalli-Rajhara.	15-7-75 to 14-7-76
5.	M/s. Mahabir Transport Co. Dalli-Rajhara.	1-8-76 to 30-6-77
6.	M/s. Ajay Transport Co. Dalli-Rajhara.	13-1-77 to 12-1-78
7.	M/s. R. M. Shukla Dalli-Rajhara.	30-11-76 to 30-9-77
8.	M/s. Ajay Drilling and Transport Co. Dalli-Rajhara.	28-9-76 to 31-7-77
10.	M/s. Upadhyaya and Co. Dalli-Rajhara.	28-9-76 to 31-1-77
11.	M/s. Commercial Transport Dalli-Rajhara.	4-1-77 to 31-1-78
13.	M/s. Shyam Sunder Soni Ganjpara Durg.	21-2-77 to 20-2-78
14.	M/s. Rajhara Truck Transport Sahakari Samiti, Dalli-Rajhara.	10-1-77 to 9-1-78
15.	M/s. Eastern Trading Corpn. Dalli-Rajhara.	4-12-76 to 3-12-77
16.	Jay Transport Company Dalli-Rajhara.	11-1-77 to 10-1-78

These contracts were awarded after inviting the tenders on certain terms and conditions which were almost identical in all the transport contractors. The special conditions

have been enumerated in details in the Special Conditions of the Contract. These points have been elaborated by the parties in their respective rejoinders.

14. That apart, the reference is untenable for the following reasons :—

- (a) That the Company is not the employer of the workmen employed by the Contractors/Societies.
- (b) That there cannot be any industrial dispute between the Company and the workmen employed by the Contractors/Societies.
- (c) That in the absence of any real industrial dispute between the Company and the workmen employed by the Contractors/Societies there can be no reference under Section 10 of the I. D. Act.
- (d) That there can be no reference under Section 10 (1)(d) of the I. D. Act if the subject matter of reference is not included either in Second Schedule or Third Schedule of the I. D. Act.
- (e) It is the employer i.e. Contractors/Societies to comply with the Statutory requirements contained in Section 24(N) and 25-F of the I. D. Act before any retrenchment takes place. The Company is not the employer.
- (f) The dispute regarding payment of retrenchment compensation/gratuity etc. is between the workmen and the employer i.e. the Contractors/Societies and not between the Company and the Contractors workers. Therefore, impleading of the Company amounts to misjoinder of parties. For this reason also, the reference is bad in law.
- (g) The workmen employed by the Cooperative Societies are also the Share Holders of such Societies. Therefore, the same can be settled under the provisions of M.P. Cooperative Societies Act. The provisions of I. D. Act are barred under the said M.P. Cooperative Societies Act.
- (h) The Company is no doubt the principal employer with respect to the workmen employed by the Cooperative Societies/Contractors, but it is so only for limited purpose as indicated in that Act.
- (i) The terms and conditions of contract are set out in the agreed contract between the Company and the Contractors. Clause 32 of the General Conditions says that all labour directly or indirectly employed by the Contractor on the work, it shall be the bounden duty of the Contractor to abide by and to strictly comply with all labour legislations, as may be applicable, enacted by the Parliament, or by the State Legislature and the Rules/Regulations framed thereunder. Therefore the reference regarding liability on the principal employer for payment to the Contractors workers is not tenable.

The reference is, therefore, liable to be rejected.

15. The case of the following contractors is as follows :—

1. M/s. Kodekasa Mining Co., 1, Dalli Rajhara	
2. Sri Pukhraj Jain, Contractors	-do-
3. M/s. Mahabir Transport Co.	-do-
4. M/s. Ajay Transport Co.	-do-
5. M/s. R. M. Shukla	-do-
6. M/s. Ajay Drilling and Transport company	-do-
7. M/s. Pukhraj Jain	-do-
8. M/s. Upadhyaya and Co.	-do-
9. M/s. Commercial Transport Co.	-do-
10. M/s. Kalayan Traders	-do-
11. M/s. Jay Transport Co.	-do-
12. M/s. Life Tube Well Pvt. Ltd.	-do-

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16. According to these Contractors the terms of reference speak for itself as to whether the principal employer viz. Bhilai Steel Plant is liable for ensuring continuity of service and payment of consequential benefits, and contribution of provident fund having regard to the fact that they are principal employer and already made payment of leave wages and provident contribution. Thus the dispute is between the Company and the workers employed by Contractors of Dalli-Rajhara Group of Mines. They are wrongly made parties to the dispute. They are not at all necessary parties to the dispute. In case Contractors were to be made party, all the Contractors who have worked in the area were required to be made parties and these answering Contractors would not have been selected in isolation to be made party. Neither the reference order nor the failure of conciliation report makes out any case to make the answering Contractors to be party to the dispute. In the instant case, neither the S.K.M.S. nor any employee made any demand from the Contractors in respect of terms of reference mentioned in the Schedule. In fact, no such demand could have been made from the Contractors. Even otherwise, on the facts and circumstances of the case, the question of demanding anything from the Contractors in respect of demand does not arise. Even otherwise also, the demand is different from the demand raised by S.K.M.S. There are no demands to implead the Contractors as parties nor any relief is claimed from the Contractors in their letter of demand addressed to the Company. Thus the Government has acted mechanically without applying its mind in making the reference. The demand, in fact, was not in respect of the Contractors mentioned in the terms of reference, but in respect of all employees employed through the Contractors by the main employer. Leaving out the other contractors is violation of Art. 14 of the Constitution of India inasmuch as there is a hostile discrimination against the answering Contractors.

17. The legal obligations under the Labour Laws do not make the Contractors liable in any way whatsoever. Mining and transportation of the ore is the basic duty of the Steel Plant. Ore is only meant for their own Plant and not for any other work. The Company could have got the work done either departmentally or engaged agencies like Contractors or some other agency. In this particular case, the Company chose to utilise the Contractors as their agencies for mining and transporting ore.

18. The Company has paid wages and other benefits under the Labour Laws. They make the Contractors only a media for payment. The reference to various context and other documents executed between the parties would reveal this fact. Time keeping of all the workers was done by the Company. All statutory registers under Mines Act are maintained by the Company. Transfers of surplus workmen was also made by the Company. Rate analysis given by the Company clearly shows that these two items have not been included in the rate analysis.

19. The question of payment of Gratuity or Retrenchment Compensation by the Contractors does not arise because it is payable under the Payment of Gratuity Act under certain conditions as enumerated in the law. Relationship of Master and Servant rests entirely with the Company and the employee in the special circumstances of this case. The industrial dispute, if any, is between the Company i.e. the Bhilai Steel Plant and the workers. Alternatively employment was not offered by the Contractors but by the Company and on their intervention the workers were employed by the subsequent Contractors. Thus the Company is not merely the principal but virtual employer who controls, guides and supervises working of the employees. Question of retrenchment compensation, if any, can be decided even without reference. Adjudication is not necessary and it can be decided under the provisions of law already in existence. The Contractors could not be made liable for Gratuity or Retrenchment Compensation, if any. They have not agreed to either of the payment. Even in law,

it cannot be their liability. The Contractors have denied all adverse allegations stating that the reference is bad in law, inasmuch as the answering Contractors are not necessary party in any way, for they have no liability and the same is that of the principal employer i.e. the Bhilai Steel Plant.

20. The following issues were framed by my learned predecessor, Hon'ble Justice Shri S. R. Vyas, and my findings with reasons are as under :—

ISSUES

1. (a) Whether in view of the provisions of the Contract Labour (Regulation and Abolition) Act 1970 and the admitted facts of the case the relationship of employer and employee existed between the Management of Bhilai Steel Plant and the labourers engaged by the Contractors for doing various jobs mentioned in the statements of demands of the parties ?
- (b) If there was such relationship of employer and employee between the management of the Bhilai Steel Plant then whether the management of Bhilai Steel Plant is liable for ensuring continuity of service and consequential terminal benefits in the form of payment of retrenchment compensation and gratuity to the labourers engaged by the Contractors ?
2. Whether the claim for payment of Gratuity can be considered in proceedings on a reference under the provisions of the Industrial Disputes Act, 1947 ?
3. Whether the present reference is not maintainable in view of the objections raised by the management of Bhilai Steel Plant ?
4. Whether in the present proceedings Contractors other than those specified in the Schedule, are necessary parties to this reference ?
5. To what reliefs are the parties entitled to ?

FINDINGS WITH REASONS :

21. ISSUE No. 1(a).—Before taking up the Issue 1 must go through the following passage from the judgment of Hussainbhai Calicut Vs. Alath Factory Vs. Alath Factory Thizhilali Union and others (1978 SCC (L&S) p. 506), the relevant part of which runs as follows :—

"The true test is—Where a worker or group of workers labours to produce goods or services and these goods or services are for the business of another, that other is, in fact, the employer. He has economic control over the workers' subsistence, skill, and continued employment. If he, for any reason chokes off, the worker is, virtually, laid off. The presence of intermediate contractors with whom alone the workers have immediate or direct relationship ex contractu is of no consequence when, on lifting the veil or looking at the conspectus of factors governing employment, we discern the naked truth, though draped in different perfect paper arrangement, that the real employer is the Management, not the immediate contractor. Myriad devices half-hidden in fold after fold of legal from depending on the degree of concealment needed, the type of industry, the local conditions and the like, may be resorted to when labour legislation casts welfare obligations on the real employer, based on Arts. 38, 39, 42, 43 and 43A of the Constitution. The court must be astute to avoid mischief and achieve the purpose of the law and not misled by the maya of legal appearances.

If the livelihood of the workmen subsequently depends on labour rendered to produce goods and services for the benefit and satisfaction of an enterprise, the absence of direct relationship or the presence

of dubious intermediaries or the make-believe trappings of detachment from the Management cannot snap the real-life bond. The story may vary but the inference defies ingenuity. The liability, can not be shaken off.

Of course, if there is total dissociation in fact between the disowning management and the aggrieved workmen, the employment is, in substance and real-life terms, by another. The management's adventitious connections cannot ripen into real employment."

22. Another judgement which has been mainly relied upon by the management has also to be looked into which relates to the case of Workmen of Food Corporation of India Vs. M/s. Food Corporation of India (AIR 1985 SC p. 670). I would like to reproduce the entire relevant para 11 of the judgment and to emphasis on the words "the workmen of the contractor would not without something more become the workman of that third person." The relevant para 11 reads as under :—

"Briefly stated, when Corporation engaged a contractor for handling foodgrains at Siliguri Depot, the Corporation had nothing to do with the manner of handling work done by the contractor, the labour force employed by him, payments made by him etc. In such a fact situation, there was no privity of contract of employer and workmen between the Corporation and the workmen. "Workmen" has been defined (omitting the words not necessary) in the Industrial Disputes Act to mean 'any person (including an apprentice) employed in any industry to do....'. The expression 'employed' has at least two known connotations but as used in the definition, the context would indicate that it is used in the sense of a relationship brought about by express or implied contract of service for which he is engaged by the employer and the latter agrees to pay him in cash or kind as agreed between them or statutorily prescribed. It discloses a relationship of command and obedience. The essential condition of a person being a workman within the terms of the definition is that he should be employed to do the work in that industry and that there should be, in other words, an employment of his by the employer and that there should be a relationship between the employer and him as between employer and employee or master and servant. Unless a person is thus employed there can be no question of his being a 'workman' within the definition of the term as contained in the Act. (Dharangadhara Chemical Works Ltd. Vs. State of Saurashtra 1957 SCR 152=AIR 1957 SC 264). Now where a contractor employs a workman to do the work which he contracted with a third person to accomplish on the definition as it stands the workman of the contractor would not without something more become the workman of that third person (underlining is mine). Therefore, when the contract system was in vogue, the workmen employed by the contractor were certainly not the workmen of the Corporation and no claim to that effect has been made by the Union."

23. These two judgments have been specifically cited before dealing with the facts and the relevant law of the case because the respective parties have mainly relied on these judgments in support of their respective cases. Management has put much emphasis on the judgment passed by the Madhya Pradesh High Court in Msc. Petition No. 1059/86 Steel Authority of India Vs. Shri V. S. Yadav and others dated 28-1-1987 and in this case also though the reference was different one of the questions arose whether the workmen involved in the mining operation including the raising and transporting of Quartzite, Sand, Lump and Grit etc. carried by the Contractors from time to time, who on their turn had entered into contract for the said purpose with the Bhilai Steel Plant which authorised them to carry on the said work were workmen of principal employer i.e. B.S.P.

This judgment was based on the judgement of the Supreme Court in *Workmen of Food Corporation of India (supra)* mainly and principally as also on the judgment of the Supreme Court in *Dock Labour Board Vs. Stevedores Association (AIR 1970 SC 1626)* wherein it was held that the Board is a statutory body charged with the duty of administering the scheme, the object of which is to ensure greater regularity of employment for dock workers and to secure that an adequate number of dock workers are available for the efficient performance of dock work. The Board is an autonomous body, competent to determine and prescribe the wages, allowances and other conditions of service of the dock workers. It was further observed that the purpose of the scheme is that the entire body of the workers should be under the control and supervision of the Board.

24. This judgment of the High Court has also referred the case of *Hussainbhai (supra)* and the High Court decided that these workmen are not the workmen of the principal employer, further holding that the learned Tribunal went beyond the jurisdiction as the matter was not referred at all to the Tribunal nor did it arise out of any matter specified in the terms of reference. Keeping the principles laid down in those judgments in mind, I will enumerate in details the facts and the application of law so far as this particular case is concerned and in the circumstances brought out in the evidence on the record of this case.

25. Before dealing with the points raised in the Issue I must first dispose of the objection to the effect that it is not the issue under reference whether relationship of employer and employee existed between the Management of B.S.P. and the workmen employed by the Contractors for performing various jobs, can be adjudicated upon by this Tribunal. It would, therefore, be expedient to reproduce the term of reference to find out whether this Court can adjudicate upon this Issue :—

"Having regard to the fact that the Principal Employer viz., Management of Bhilai Steel Plant makes payment of leave wages under the Mines Act and the provident fund contributions under the Employees Provident Fund Act in respect of workmen employed in Dalli Rajhara group of mines through the successive contractors, whether they should also be held liable for ensuring continuity of service and consequential terminal benefits in the form of payment of retrenchment compensation and gratuity to such workers."

26. The very basis of the reference is as to whether the Principal Employer viz. Management of Bhilai Steel Plant are liable for ensuring continuity of service and consequential terminal benefits in the form of payment of retrenchment compensation and gratuity to such workers. Thus, by implication, this Court has to give a finding as to whether the workmen concerned are, in fact, the employees of the management as pleaded by the Union and the Contractors were acting as mere Agents or otherwise on behalf of the management.

27. It is well settled Law that the Court cannot go beyond the terms of reference and it has to confine itself to them only and the outset it was urged on behalf of the Management that this Tribunal cannot go beyond the terms of reference and this Tribunal has no jurisdiction to give a verdict on the point having regard to the fact that the Principal Employer viz. Management of Bhilai Steel Plant makes certain payments under Mines Act and Employees Provident Fund Act i.e. by fulfilling certain obligations in respect of workmen employed in Dalli Rajhara Group of Mines through the successive Contractors and as such the Principal Employer should also be made liable for ensuring continuity of service and consequential terminal benefits in the form of payment of retrenchment compensation and gratuity to such workers because the Government has specifically made the reference whether the Principal Employer viz. B.S.P. should also be held liable for ensuring continuity of service and consequential terminal benefits in the form of payment of retrenchment compensation and gratuity to the workmen employed in Dalli Rajhara Group of Mines through the successive Contractors, having regard to the fact that the Principal Employer makes payment of leave wages under the Mines Act and the Pro-

vident Fund contributions under the Employees Provident Fund Act.

28. In this regard, my attention was drawn towards S.C.L.J. 1950-83 (Second Revised Edition Vol. VI) at page 226. This case relates to Calcutta Electric Supply Corporation Ltd. and Calcutta Electric Supply Workers Union and others (AIR 1959 SC 1191). In this case, the terms of reference related to medical aids to the workers but the learned Tribunal went beyond the scope of the terms of reference and directed the employer to provide aid for the family of the workmen. In this context, it was held that in construing the terms of reference and in determining the scope and nature of the points referred to the Industrial Tribunal the Court must look at the order of reference itself. It is only the subject matter of reference with which an Industrial Tribunal can deal.

29. Similar question arose in the case of *M/s. Firestone Tyre & Rubber Co. of India (P) Ltd. Vs. Workmen employed represented by the Firestone Tyre Employees Union (AIR 1981 SC 1626)*. In this case, it was held that reference was only to the question as to whether the workmen shown in two parts of a paragraph in the Schedule attached to the reference should be reinstated was referred, and the Tribunal gave finding that due to subsequent reinstatement of workmen shown in one part of the para there was discrimination and also unfair labour practice was involved, the Tribunal would be deemed to have travelled outside its jurisdiction in recording a finding of unfair labour practice or discrimination. It was further observed that the issue of unfair labour practice or discrimination by reason of subsequent reinstatement on a permanent basis of some and not all was not a matter referred to the Tribunal for adjudication, nor it could be said to be in any way connected with or incidental to the right as claimed by the workmen, from the date of their dismissal.

30. While dealing with these aspects of the case, we must first look into the relevant provisions of law which has been enumerated in Sec. 10 Sub-section (4). Sub-section (4) of Section 10 runs as follows :—

Section 10(4) of I. D. Act :

"Where in an order referring an industrial dispute to a Labour Court, Tribunal or National Tribunal under this section or in a subsequent order, the appropriate Government has specified the points of dispute for adjudication, the Labour Court or the Tribunal or the National Tribunal, as the case may be, shall confine its adjudication to those points and matters incidental thereto." (underlined by me).

Thus according to the aforesaid provision the Tribunal while adjudicating upon the dispute shall confine its adjudication to the points referred and matters incidental thereto.

31. Making an order of reference under Sec. 10(1) is undoubtedly an administrative function of the appropriate Government based upon its own opinion with respect to the existence or apprehension of an industrial dispute and its subjective decision as to whether it would be expedient to make a reference or not. Though the earlier thinking was that such an order cannot at all be interfered with by the courts, the recent trend of the judicial thinking is that though in a very limited field the order of reference is amenable to judicial review under certain circumstances (See 970-II-LLJ 266 SC, AIR 1969 SC, 707-715(2) 1968 II-LLJ 834 SC; AIR 1967 SC 295(309) (3) AIR 1970 SC 564-644 para 233 (4) 1972-II-LLJ 437 SC; 1972-II-LLJ 657—From Malhotra on the Law of Industrial Disputes, Fourth Edition, Vol. I, page 613).

32. From the above decisions no exhaustive and final criteria emerges as to on what ground an administrative order is amenable to judicial review. Nor any such exhaustive or final criteria is possible in growing branch of law like the administrative law. Thus if the Government making the reference is not the appropriate Government within the meaning of Sec. 2(a) of the Act the reference shall not be a valid reference.

33. The objective "industrial" in the definition of I.D. Act relates to the dispute in an industry as defined in Sec. 2(j) of the Act (Madras Jymkhana Club Employees Union Vs. Gymkhana Club 1967-II-LLJ 720 SC). In other words, besides the requirements of Sec. 2(k) unless the dispute is related to an industry as defined in Sec. 2(j) it will not be an industrial dispute. Therefore, if the reference is made of a dispute which relates to any activity which is not of industry, it will not be a valid reference. Corollary to this proposition is that the dispute should be in a live industry and not in a dead or closed industry as the definition of industrial dispute presupposes continuance of industry (Pipraich Sugar Mills Ltd. Vs. Pipraich Sugar Mills Mazdoor Union 1957-I-LLJ 235 SC—O.P. Malhotra's supra p. 610). Where a notification that a dispute relating to the retrenchment etc. of workman is referred to the Tribunal, a person who claims to be a worker and insists that his case should be decided by the Tribunal, he cannot take up the contention that the reference is not valid under Sec. 10 because it has not specified the names of the workman. That being so, the Tribunal is also entitled to decide that he is not a workman and refuse to pass any order when he approaches it (Sunder Lal Saxena Vs. Hindustan Commercial Bank Ltd. AIR 1953 All. p. 260—O.P. Malhotra supra p. 613-622).

34. The word 'industrial' is defined as referred to under Sec. 10(4) means, according to Webster's New World Dictionary :

"Happening or likely to happen as a result of or in connection with something more important; being an incident: casual, hence, secondary or minor, but usually associated."

In other words of Mitter J.—

"Something incidental to a dispute must, therefore, mean something happening as a result of or in connection with the dispute or associated with the dispute. The dispute is a fundamental thing while something incidental thereto is an adjunct to it. Something incidental, therefore, cannot cut at the root of the main thing to which it is an adjunct. A point is incidental to another point when the former necessarily depends upon the other "Incidental" implies a subordinate and subsidiary thing related to some other main or principal thing requiring casual attention while considering the main thing. It is obvious, therefore, that the matters which require independent consideration or treatment and have their own importance, cannot be considered as "Incidental". The words "matter incidental thereto" should not be interpreted so as to give vague and indeterminate jurisdiction to the Tribunal, especially over independent matters. A matter which is independent in one context, may become subsidiary in another matter in a different context. It all depends how and under what circumstances it arises. In other words, the question whether the one adjudication matter is incidental to the adjudication of another depends on the facts of the case, the pleadings of the parties and the issues which properly arise for determination on the pleadings. The words "incidental thereto" in Section 10 (4) do not have the same meaning as the words "relevant to" occurring in Clauses (b), (c) and (d) of Sec. 10 (1). The matter covered by later expression must be specially referred for adjudication while the matters covered by the former expression need not be specifically referred to as they can be adjudicated upon as a part of main dispute. For instance, on an industrial dispute being referred to it, the Tribunal has jurisdiction to determine whether on the facts placed before it, and 'industrial dispute' within the meaning of Section 2(k) has really arisen or the concerned persons are "workmen" as defined in Sec. 2(s) or a particular undertaking is an 'industry' within the meaning of Sec. 2(i) or such industry is a live industry or a close industry. Such questions can be validly examined and adjudicated upon by the

Tribunal as matters incidental to the point of dispute specified in the order of reference. These matters have not only to be determined as matters incidental to the dispute but have necessarily to be determined as collateral or jurisdictional issues as the jurisdiction of the Tribunal depends upon such determination, or adjudication (Sec. O.P. Malhotra supra pages 685 & 686)."

35. In view of the above discussions, it can be safely said that though the scope of the Tribunal is limited in regard to adjudication on the terms of reference and it cannot go beyond the terms of reference, but at the same time the Tribunal can certainly look into the facts under the terms of reference to find out whether it has jurisdiction or not and as such it can certainly find out whether there is an industrial dispute or the dispute relates to an industry or reference is made by the appropriate Government or the dispute relates to the workman etc.

36. The M. P. High Court in Msc. Petition No. 3958/88 Azad Koyala Gramik Sabha Vs. W.C. Ltd. has also held that the Court cannot go behind the term of reference. It runs as follows :—

"It is apparent from reading the said reference that it proceeded on the assumption that the persons mentioned in the schedule had been employed as the workers by the respondents and the only question which was to be decided by the tribunal was whether after the termination of their services they were entitled to be re-employed u/s 2-H (25-H) of the Industrial Disputes Act.

In our opinion, the above said being the scope of the reference, the Tribunal committed an error, by examining the question whether the persons mentioned in the schedule had ever been employed as workmen by the respondents-employer. The said matter was beyond the scope of reference and the Tribunal committed an error of jurisdiction in proceeding to decide the said question."

37. But in the instant case, it is undisputed that the workmen concerned were employed in Dalli Rajhara Group of Mines by the Contractors and thereafter by their successors. The reference made to this Tribunal is very clear. The question referred for adjudication is whether the Principal Employer viz. the Management of Bhilai Steel Plant should be liable for ensuring continuity of service and consequential terminal benefits in the form of payment of retrenchment compensation and gratuity to the workmen employed in Dalli Rajhara Group of Mines through the successive contractors because they makes certain payment under the Mines Act and Employees Provident Fund Act to those workers. From the above discussions it is obvious that though the Tribunal cannot go beyond the terms of reference made to this Tribunal, for adjudication, but it can look into the matters incidental thereto to find out whether the Contractors workmen are entitled to claims as referred from the Principal Employer and therefore this Tribunal shall not confine itself to only those points under terms of reference on the basis of which the Principal Employer is sought to be made liable but explore the entire facts to find out the liability, if any, of the Principal Employer to Contractors labourers.

38. On behalf of the Company it has been pleaded that the Company is not the Employer of the workmen employed by the Contractors/Societies. Therefore the reference is untenable. The question now arises as to whether the workmen concerned are in fact the employees of the Management as pleaded by the Union and the Contractors were acting as mere Agents or otherwise on behalf of the management. Hence also this Tribunal has to explore all facts to decide this point.

39. Thus the issue is not only inherent in the terms of reference but this fact has to be decided as an ancillary to the terms of reference, else this Tribunal cannot answer the reference in regard the alleged liability of the Management towards the Contractors workmen. Thus this Court is bound to adjudicate upon this point to answer the reference. Hence veragness of reference will not come in the way of adjudication.

ating upon this point, I shall further elaborately deal with the legal preposition from various aspects later on.

40. Now coming back to the evidence on record I must first deal with the evidence adduced by the Union. Ex. W/1 is Settlement dated 9th August, 1966 arrived at between the management and the workmen. Demand No. 5 relates to abolition of contract labour, the settlement of which was arrived in the following terms :—

“Demand No. 5 :—Contract labour : It is high time that the contract labour system is abolished and they are absorbed under the direct management of the B.S.P. Instead of abolition, the strength of contract labour is increasing day by day. Till the contract system is abolished, the same service and working conditions should be made applicable to the workers under the contractors as obtaining with the B.S.P. direct.

In view of the assurances given by the management that complete mechanisation of their mines was in progress and was likely to be completed within a period of about 2 1/2 years at the expiry of which all mining work would be done departmentally, it was agreed that the following measures would be adopted by the management for regularisation of the contract labour and to reduce the scope of unfair labour practice reported to be indulged in by the Bhilai Steel Plant Contractors.

(a)(i) Work orders would normally be repeated to the same contractors.

(ii) Works given on contracts would normally be for a period of two years

(iii) The management will use their good offices to ensure as far as possible that the new contractor engages all the ex-employees of the out-going contractor.

(b) It was also agreed that the management of Bhilai Steel Plant would be responsible for marking the attendance of the labourers employed through contractors in their mines and would maintain all the forms and registers as required under the law.

(c) The management agreed to insert a new clause in the new agreements to be entered into by them with their contractors providing that the Standing Orders applicable to the direct employees of the Bhilai Steel Plant would also be applicable to the workmen employed through their contractors.

(d) It was agreed that the Bhilai Steel Plant management would ensure that their contractors comply with their statutory obligations under the Payment of Wages Act in respect of the issue of measurement slips and wage slips.

(e) It was agreed that the management of Bhilai Steel Plant would enforce payment of wages and fulfilment of other legal and contractual obligations by their contractors.

(f) It was agreed that attendance of the labourers engaged through contractors would be taken by the Bhilai Steel Plant Time Keeper and the contractor's labourers will drop their cards with the B.S.P. Time Keepers at the commencement of the shifts and collect the same at the end of the shift.

(g) It was agreed that the Bhilai Steel Plant management would discharge all statutory obligations in respect of such matters for which they were deemed to be employers under different labour laws.”

Ex. W/2 is the General Manager's Order dated 10-2-1967 relating to implementation of the Hindustan Steel Gratuity

Rules 1966 and the Hindustan Steel Provident Fund Rules 1966. Ex. W/3 is the Resolution dated 3-6-67. Ex. W/4 is another Memorandum of Settlement between the representatives of the employer and representatives of the workmen which arrived at on 7-10-1971. This settlement relates to Contractors workmen without involving the Contractors and is very material to understand the entire history behind this dispute. I will, therefore, reproduce term nos. 1 and 2 of the Settlement which are as under :—

“1. Agreed that all the retrenched workers was on the roll of M/s. R. K. Agarwal, Contractor Dalli Mines as on 30-9-71 will be employed by M/s Pukhraj Jan S/o Phool Chand Jan, the incoming Contractor of Dalli Mines without interrupting their continuity of service.

2. Agreed that the period between 1-10-71 to 7-10-71 will not be treated as break in service for the purpose of seniority. In other words this break in service will be treated as dies-non.”

Ex. W/5 are the minutes dated 28.7.1972 of the meeting held between the representatives of the management and union regarding the matter of recruiting the loading and raising labourers which was discussed at length and which finds place at para 5 of the minutes. Ex. W/6 is another Memorandum of Settlement between the management and the workmen dated 3.10.1973. It may be further noted that Contractor was not involved in this Settlement while the term No. 1 of the Settlement relates to Contractor's labourers. It runs as thus :—

“(1) The Memorandum of Settlement increasing the wages of the departmentalised raising and loading workmen signed by the management and SKMS before ALC (Central), today will be implemented for the raising and transport workmen employed by the Contractors/Labour Cooperatives at Rajhara as soon as the technical parameters required to compute wages on a piece-rate basis in the manner done for the departmentalised workmen are available in other manual mines in the Rajhara Group.”

41. Ex. W/7 are the Special Conditions between the Contractors and the Management which go to show the control of the management on the Contract labourers. I will deal with these Special Conditions later on. Ex. W/8 are the Standing Orders for the Mines. Ex. W/9 is the letter addressed by the management to the Union. This letter deviates a little from the above mentioned settlements taken place between the workmen and the management in relation to raising of wages without the intervention or concurrence of the Contractors. At this juncture, the management became a little cautious and at the end of this letter it has been expressed by way of note that the acceptance of the above offer of rates by the working agencies is essential for fulfilment of our commitment as per Agreement dated 6-3-1974. Here is the seed of the dispute shown by the management which ultimately resulted in this dispute.

42. Ex. W/10 is another Memorandum of Settlement dated 1-11-1977 arrived at between the Contractors and the workmen. Now the matter of deciding the dispute between the Contractors and their employees appears to have been shifted more towards the Contractors without the involvement of the management. But the oral evidence lead by the Union speaks otherwise and the witnesses for the management lose their memory in this regard as would be evident while discussing the oral evidence. Thus this is a for greater deviations from the original stand between the Contractors employees and the Management, and the facts of the case of the Workmen of Food Corporation of India (supra) be kept in mind, where the management was not permitted to revert back after treating the contractors employees as their own. Here the case may be a little different but is certainly against the revival of contract labour. But here even para 4 of Ex. W/10 which relates to Fall Back Wages Scheme of Dalli Rajhara Mines shows

that the Union has agreed to Fall Back Wages Scheme prepared by the Management. It further reveals that the industrial engineering study might be done for a period of five weeks of normal uninterrupted work and based on studies. Thus retreat from Settlement Ex. W/1 and Ex. W/4 was not warranted as is the case of management advanced before this Tribunal.

43. Ex. W/11 is a copy of the letter addressed by one of the Contractors to the Superintendent Dalli Group of Mines of Dalli Rajhara. According to this letter, the management had asked the Contractors to pay retrenchment compensation and till the said compensation is not paid the contractor was asked to pay the wages to the workers. The Contractor had raised objection in this regard, but the direction of the management to Contractor in this regard is there on record.

44. Ex. W/12 is another important document dated 16.2.1980 (in Hindi). It has been issued on behalf of the management which runs as thus:—

‘बल्लो राखरा खदान समूह के खदानों के ठेकेदारों तथा सहकारी समितियों में कार्यरत वह ड्रिलर, फ्रेजर ऑपरेटर, ड्रक्टर ग्राइंडर तथा हेल्पर जिनके नाम ‘बी’ फार्म रजिस्टर में दिनांक 1-9-77 के पश्चात पंजीयन हुए हैं, उनकी पूर्वाति (प्राचीनता) बरीकता सूची सूचनार्थ प्रकाशित की जा रही है।

यह सूची सभी सम्बन्धित ठेकेदार, सहकारी समितियों तथा खदान प्रबंधक के कार्यालयों में अभिकों की सूचना एवं अवलोकनार्थ उपलब्ध है।

जिन धमकों की इस सूची में दर्शायी गयी प्रविष्टियों पर यदि कोई आपत्ति (आब्जेक्शन) है वे अपसो अपसो पूर्ण विवरण सहित खदान प्रबंधक के द्वारा इस कार्यालय में दिनांक 30-9-80 के पूर्व प्रस्तुत करें। इसके बाद अने वाले आपत्तियों (आब्जेक्शन) पर विचार नहीं किया जायेगा तथा उपरोक्त स्थिति के तुरंत पश्चात यह सूची अंतिम रूप से प्रकाशित कर दी जायेगी।’

This document shows that the seniority list of the certain workmen was prepared by the management and the objections in relation thereof were invited.

45. Ex. W/13 is a Certificate of the Mines Manager showing the names of the workers likely to be retrenched by the Contractor. Ex. W/14 is a letter dated 8-7-79 addressed by the management to Contractor asking him to direct the surplus, transport and Amani workers to agencies mentioned therein for deployment, asking them to furnish the detail to the concerned agencies. This is another instance of direct hold on the workers by the management.

46. Now coming to Ex. W/15 dated1979. It does not give the date but refers to letter dated 13-6-1979. According to this letter, management had sent a list of persons to be engaged by the Contractor viz. M/s. Commercial Enterprises for the work shown in the letter. Thus on this date the management would send the list of the workers to be utilised by a particular contractor for a particular work. Similar letter Ex. W/16 was issued to M/s. Ajay Drilling and Transporting Co. Ex. W/17 is a copy of a letter of the management dated 20-4-1978 addressed to M/s. Commercial Enterprises, Contractor, Dalli-Rajhara, which runs as thus:—

‘You have been awarded the contract of Transportation of Iron Ore/Fines, from working faces of the Quarry to Ore Dump Yard/Fines Dump Yard.

Enclosed please find herewith the list of workmen employed by the outgoing contractor, showing their CPF A/C Nos. They may please be employed by you and their CPF deducted as per rules. Based on this please submit C.P.F. Annexure-I.’

47. Ex. W/18 dated 13-1-1981 relates to Special Conditions of the workers. Ex. W/19 relates to the record of notice of discussions between the management of R.S.P. and

workmen represented by C.M.S.S. Union which relates to payment of bonus for the year 1981-82 etc. It may be reproduced as under:—

“(1) Payment of Bonus for the year 1981-82 :

It is agreed that the eligible raising and transport workmen employed by the Contractor Co. Cooperative Society in the Iron Ore Group of Mines at Dalli Rajhara, will accept the annual bonus for the year 1981-82 at the rate of 8.35% of their pay during the accounting year in accordance with the provisions of Sub-section 2-A of Section 10 of Payment of Bonus Act, 1965 (as amended) which is full and final for the said year. Payment in this regard will be released by the management by 29th March, 1983.

It is also agreed that for the financial year 1982-83, annual bonus will be paid as per the production/productivity Scheme which will be worked out in consultation with the Union.

(2) Grant of leave facilities to contractual/society workmen :

It is agreed that the leave (C.L.F.L. etc.) will be giving to the Raising workers by their employers in terms of existing contract. However, in future contracts beyond June/July, 1983, provision will be made for the leave benefit in line with the Raising Workers.

In view of the aforesaid understanding, the union agrees to withdraw its agitation and maintain normality in the Dalli-Rajhara Group of Mines.”

(Note : The Contractors were not involved in this Agreement arrived at between the Management and the Union.)

48. Now we come to the oral evidence adduced on behalf of the Union. Union has examined one Brij Lal as W.W.1 and Tulsiram as W.W.2. Pukhraj Jain has been examined as Witness No. 1 on behalf of the Contractors.

49. Brij Lal is working as Driller in Dalli Rajhara Mines from 1968. From 1968 to 1980 he worked with M/s. A. C. Jain and M/s. Ajai Drilling, Contractors. Thereafter, he was employed by the department. Certificate Ex. W/13 was issued to him (paras 1 & 2 of deposition). This witness further stated that about 260 workmen in the Drilling Department were employed departmentally after 1980 along with him. The Mines Manager had prepared a list of all those persons who were employed departmentally on the basis of seniority based on the length of service. His grievance is that when he was employed in the Bhilai Steel Plant he was not given anything as retrenchment compensation or bonus. He says that while he was working with the Contractors the Mines Manager, Mines Supervisors and Mines Mate used to issue necessary instructions to workmen employed by the Contractors for the nature of duties to be performed by them. The same type of instructions are being issued even after he has been employed with the Company.

50. In his cross-examination by the management this witness states that the wages were paid by the Contractors, while the Contractors in their turn were paid by the Company. Rates of work to be carried out under the contract were specified as per contract between the Contractors and the Management of the Bhilai Steel Plant and the Contractors paid wages to the workmen at the aforesaid specified rates. Wages were settled between the Contractors on one hand and the workmen or their Union on the other hand. He along with his workmen used to work according to the directions given by the supervisors.

51. This witness further admits in para 8 of his deposition that before the workmen were so employed by the department they were interviewed and medically examined. He says that those who did not pass interview or were declared medically unfit were not employed departmentally. He further admits that the supervisors and monthly rated employees of the Contractors were not employed departmentally. He

admits that his name along with others who were employed departmentally were sponsored through the Employment Exchange and the selected workmen did not turn upto the Contractor for work. He admits that after the selection/employment as a departmental workmen they did not approach the Contractors either for gratuity or for retrenchment compensation or for payment of any other payment.

52. This witness was cross-examined by the Contractors. This witness says that the wages of the workmen were settled in the presence of the officer of the Bhilai Steel Plant. Management insisted that the new contractor should give employment to all the workmen employed by the old contractor. Thus the real Contractor used to remain the same but only for the purpose of evading income-tax contracts were entered into different names. But this witness could not tell as to who was the real Contractor or the person behind the other contractor.

53. While clarifying the earlier statement this witness stated that before being given departmental employment a list based on seniority was sent by the management to the Employment Exchange and the workmen were referred to by the Employment Exchange to the management on the basis of that list.

54. Coming to the testimony of W.W. 2, Tulsiram, who was a raising mazdoor in Dalli Rajhara Mines since 1970 and was working with the Mahamaya Cooperative Society since August 1977, had worked under M/s A. C. Jain, M/s. Sampat Lal Jain, Kohdekasa Mining Company who were the successor contractors. He states that as soon as he started working, his name in the Mine was registered in Form 'B' and is still there and he is doing the same work. He says despite the change of contractors he was asked to continue his work by the Mines Manager in Mahamaya Mines. His attendance was marked by the Time Keeper of the Company. The Contractor as well as the Company both maintained separate attendance registers of the workmen. While he was working with different contractors, he along with the other workmen was being paid wages according to Wage Board Recommendations. From 1979 they are paid wages at the same rate at which piece rated employees of the B.S.P. are paid. They were paid Mines Allowance, House Rent Allowance and Transport subsidy. Their leave wages were paid by the B.S.P. ever since they were employed by the Contractors. Wages for the National Holidays were similarly paid by the Bhilai Steel Plant.

55. In cross-examination, this witness says that he is a share holder of Mahamaya Cooperative Society and after he became member of the Society he did not work for the Contractor. His wages were paid in accordance with the Settlement between the B.S.P. and the S.K.M.S. Supervisors and monthly rated workers of the Society were paid by the management while the workers were paid wages by the Society.

56. Coming to the testimony of Contractor's witness No. 1, Pukhraj Jain, who was working in Dalli Rajhara since 1959, he says that B.S.P. is giving raising contracts for operating the mines. First they gave work order then they started inviting tenders in about the year 1962-63. Raising contracts were generally for one year. If the contract had not been completed during that period the time could be extended. B.S.P. used to give a list of workers who were to be employed and raising contractors did not have their own workers. After contract was over, these workman did not remain with the contractors. If the wages were raised required to be raised the workers would approach the B.S.P.; management and the B.S.P. would then direct that wages are to be enhanced and accordingly the wages were paid at the enhanced rate. B.S.P. had the control and superintendence over the workers. They were the disciplinary authorities for them. Attendance muster rolls were maintained by the B.S.P.

57. This witness further states that the B.S.P. Mine used to supervise generally the work done by the contract workers. He used to detail them on duties according to the exigencies and the quality control was effected through the Geologist of the B.S.P. Foremen were appointed by the B.S.P. to supervise the operation. Form 'B' Register in respect of these workmen employed with the Contractors was

maintained by the B.S.P. All the statutory forms under the Mines Act and Regulations in respect of workers employed by the Contractors were maintained by the B.S.P. They were responsible for the grant of leave, payment of provident fund, bonus, other allowances as also maternity benefits etc.

58. According to this witness, when asked by the Tribunal, he stated that the Raising Contractors get 3.7 per cent plus 4 per cent for supervision of the labour employed under the raising contract. This percentage is calculated on the basis of the wages of the persons employed. Contractors functions are only to disburse the payments to the labourers. Preparing of the wages slips, supply the drinking water, supply the tools and baskets are being done by the Contractors.

59. When the witness was cross-examined by the management, he further stated that his above statement relating to raising workmen applies to transport contract also. There are mainly four Raising Contractors besides the Cooperative Societies which were engaged in taking raising contract. They are given contracts for raising ore, fines and waste and transporting. The contract is given after a formal contract signed by them. Some of the workers under him were transferred to other Contractors under the instructions of the B.S.P. He used to receive written instructions about the transfer of labour under him. This witness has further stated that the contract rate is on the basis of ore raised per tonne. Their payment is made on the basis of ore raised for which they submit the bill. Bills do not separately show the break-up of the wages paid and the service rendered by the Contractor. Rates settled with the contractors is uniform, and applicable to all the Raising Contractors. These rates take into consideration the various factors such as wages to be paid to the workers and other terms applicable to the wages with the Union. Besides this, from time to time wages are raised. The department then informs the Contractors about the enhancement in wages and they have to pay accordingly. Thus, according to this witness, the Contractor has no choice to fix the wage of his workmen because he has to comply with the directions of the management in relation to enhancement of wages of the workmen. He admits that he had signed agreement regarding the revision of wages to the workmen with the Union, but according to him rates are fixed by the management.

60. This witness says that the Contractors used to pay workers on the basis of the work done by them. But terms of contract lay down the quality and specification of ore to be raised by the Contractor. The supervision is made by the B.S.P. and test of the quality of the ore raised is done by the Expert of the B.S.P. They have been maintaining all the statutory registers concerning wages of the workers. They have also taken licence under the provisions of the Contract Labour (Regulation and Abolition) Act, 1970. When the labour enters the mine Time Keeper of the management takes his attendance. Allowances etc. were not directly made by the B.S.P., the leave wage bill etc were prepared and paid by the Contractor and B.S.P. would reimburse them.

61. When this witness was cross-examined by the Union, he stated that in about 1981 some special terms were introduced under the contract to be performed by the Contractor. For this they had entered into a fresh contract with the management which is Ex. W/18. In the earlier contract there was no provision that the Contractor shall make payment of gratuity. According to this witness if there was any dispute it was settled by the Union and the B.S.P. and negotiated between them. The Contractor was only informed about the result though he was a party to the Agreement. Though in conciliation the B.S.P. would sign as witness but there are occasions that the B.S.P. settled the dispute directly with the labour. Ex. W/9 is one of those settlements. In that case, Contractor was only informed about the result to be followed. The management had sometimes informed the Contractors that certain labours be suspended because of the misconduct committed by him and accordingly the Contractor had to suspend him.

62. Before drawing any conclusions, we will now look into the oral as well as the documentary evidence produced by the management.

63. Management has proved Ex. M/1 to Ex. M/28. Ex. M/1 is a letter dated 9-11-77 addressed to the A.L.C. and the management of B.S.P. by the Union. According to this letter, the B.S.P. had assured the continuity of contract workers including the carry forward of leave with wages, C.P.F., Gratuity etc. from outgoing Contractor to incoming Contractor from 1972 (See also Ex. W/4). This letter specifically stated that as per the prevailing laws at the time of transfer of establishment every workman who had been in continuous service for not less than one year in the establishment immediately before such transfer shall be entitled to notice and compensation or where services of workmen were not interrupted by such transfer the terms and conditions of service and wages are the same, the new employer was legally liable to pay the workmen in the event of his retrenchment, compensation on the basis that his services were continuous and had not been interrupted by the transfer of employer. The letter further expressed the fear of the Union that at the time of superannuation/retrenchment/termination of the workmen neither the previous contractor will be available nor his fund to clear the claims because the Union has come to know that the Principal Employer has started to release the amounts of previous contractor with them. The letter further says that in such a condition only the management as a Principal Employer will have to take the entire liability which will obviously create legal complications. They have also demanded from the management that the Contractor's workers should be paid compensation for the period they have worked with different Contractors immediately either by the Contractors or by the Principal Employer, or the Management should take the responsibility to pay compensation to the contract workers at the time of their superannuation/retrenchment/termination. The letter further avers that for the purpose of payment of Gratuity of Contractors' workers the responsibility should be borne by the B.S.P. management.

64. Ex. M/2 is document of instructions relating to invitation of tenders.

65. Ex. M/3 are the Special terms and conditions for raising of Iron Ore for the period from 1966.

66. Ex. M/4 is invitation for tender for transportation of 60,000 MT of Iron Ore from Rajhara etc. etc.

67. Ex. M/5 is the Note of discussions held on 17-6-77 and 18-6-77 between the Union and the Contractors. This document has been witnessed by the officers of the management.

68. Ex. M/6 is the notice to the Union and the Management by the Contractors to express its intention to affect the changes specified in the Annexure with effect from 7th June 1978 in the conditions of service applicable to workmen in respect of matters specified in the Schedule of the said Act. Ex. M/7 is the same type of notice given by another Contractors as that of Ex. M/6.

69. Ex. M/8 is a letter dated 10th November, 1977 addressed by M/s. Jay Transport Co. to the Government intimating about the retrenchment of 1140 workmen and payment to be made as required under Section 25-F of the Act. Ex. M/9 is the similar notice dated 8th November, 1987 by the Truck Transport Sahakari Samity Ltd., Dalli Rajhara. The reason of retrenchment is that they had time bound contract for one year from the date of issue of Award/letters i.e. upto 9-1-78. According to these letters the Contractors/Samities has no other transport work and there has been no guarantee that Contractors will get the contract again. Hence retrenchment notice.

70. Ex. M/10 is a letter dated 12-9-1978 expressing the change of conditions of service applicable to workmen in respect of matters specified in the IV Schedule to the said Act. This letter was issued by seven Contractors.

71. As per Ex. M/11 dated 16-9-1978, the Union refused to accept the proposed change of service of transport workers and for workers connected with transport service. Then came a telegram dated 2-9-78 from the above contractors addressed to A.L.C. and the B.S.P., complaining the go-slow strike and calling for immediate intervention. This is Ex. M/12.

72. Ex. M/13 dated 7-10-78 by which the A.L.C. Raipur had informed the Contractors that the case of the 18 demands sent by the C.M.S.S. who gave threat of strike from 2-6-78 will be taken up on 16-10-78. All the transporters were informed that the matter relating to 18 demands made by the C.M.S.S. with a threat of strike from 2-6-78 will be taken up on 16-10-78 at Bhilai Hotel.

73. Ex. M/14 is another telegram dated 15-12-78 sent by the Eastern Trading Corporation to A.L.C. with a copy to the Management and the Union informing them that the workers struck down work from the 14th morning and forcefully stopped trucks at Aridongri Mines and damaged vehicle and as such they call for immediate intervention in the matter.

74. Ex. M/15 is the letter dated 18-12-78 sent by M/s. Jay Transport Co. Dalli-Rajhara to the Union referring to certain settlement arrived at between the parties on 1-11-77 and other discussions held on different dates stating that their demands cannot be settled under threat and dictating terms. Ex. M/16 is another copy of the said letter sent by the Ajay Mining Private Ltd. Ex. M/17 is a letter of the same kind dated 5-12-78 addressed to the Union by Rajhara Truck Transport Sahakari Samity Dalli-Rajhara calling upon the Union to settle the matter amicably.

75. Ex. M/18 is the reply of Ex. M/17 given by the Union (date of letter under reference appears to be incorrect) making various charges against M/s. Rajhara Transport Sahakari Samity Ltd., pointing out various defects of the Contractors, making various charges on the Contractors calling upon the Contractors to enhance the rate of wages as per Settlement dated 1-11-77 and to pay the arrears and also to make the payment of the period of lock out failing which the Union shall take suitable action in the matter.

76. Ex. M/19 is a letter dated 7-12-1978 addressed by the President Rajhara Truck Transport Sahakari Samity Ltd. to the Union informing that the workers stopped the work on 26-12-78 at 8.30 a.m. for full day without notice and went on illegal strike. The Contractors has further informed the Union that if such illegal stoppage is continued by the transport workers the Contractors shall be forced to take serious action including lock-out of the work and the workers shall be responsible for the consequences.

77. Ex. M/20 is a letter dated 18-11-78 from the Commercial Enterprises to the A.L.C. (C) informing that they have arrived at a Settlement on production and productivity for payment of bonus for the year 1976-77 and 1977-78 to their workmen.

78. Ex. M/21 is a letter dated 30-1-1979 from the Union to A.L.C. (C) demanding the enhancement of transport rate along with the 18 points demand raised by their Union under the strike notice dated 4-5-78. According to this notice, the Union informed the A.L.C. (C) that their demands have not been accepted and hence raising, transporting, amani, drilling and other workers of Dalli-Rajhara Group of Mines will go for indefinite strike from 5-2-79.

79. Ex. M/22 is a Settlement dated 7-6-1979 between 13 Contractors and the Union. Ex. M/23 is another Settlement dated 8th March, 1979 arrived at between M/s. Jay Transport Co. and M/s. Commercial Enterprises (Contractors) and the Union.

80. Ex. M/24 is a letter of the Contractor, Gumanmal, to A.L.C. (C) who is carrying the motor transport business stating that they do not come within the definition of Section 2(j) of the Mines Act, 1952 and therefore Section 2(a) of the I. D. Act is not applicable to it consequently the Central Government is not the appropriate Government, for their activity comes within the definition of Motor Transport Act 1961 and M.P. Industrial Relations Act, 1960. This letter refers to letter of A.L.C. (C) dated 26-12-78 in

regard to 8(18 ?) demands and strike notice dated 4-5-78 by the C.M.S. Union. According to this letter, the said Contractor has stated that his activities are adopting transportation of the mines finished product and they have nothing to do with the mining and searching of minerals and they have been hiring trucks from the open market and these motor vehicles being machineries as defined in Section 2(18) of the Motor Vehicle Act they do not come within the meaning of 'mine'.

81. Ex. M/25 is Settlement dated 18-5-80 arrived at between seven Contractors and the Union. Ex. M/26 is another Memorandum of Settlement dated 8-5-80 arrived at between the 12 Contractors and the Union.

82. Ex. M/27 is a Notice dated 20-5-80 from five Contractors to the Management, the Union etc. regarding closure of the work of raising and transportation of Iron Ore in all the Manual Iron Ore Mines of B.S.P. by all the raising and transport Contractors for Gheraos and serious labour commotions, and disorders in the Iron Ore Group of Mines of B.S.P. Paras 2 and 3 of the letter run as under :—

"2. That at present the work of Raising Ore also done by the Raising Contractors on work order basis. The management have not invited any tenders for the work of raising for the last several years although the rates of all items of expenditure have gone higher and higher in each year. As and when the workers had started in the past increase in their wages, the management only increased the rates of wages of the only category of workmen employed in the sizing and stacking of approved grade of Iron Ore. The staff including supervisory, clerical, accounts, staff required for the maintenance of statutory records and all other records required to be maintained under the provident fund Act, Bonus Act, Maternity benefit Act, Leave Registers for the payment of leave wages under the Mines Act and rules, all Amani workers necessary to execute the work order of raising of Iron Ore. Due to the implementation of Iron Ore Wage Board recommendation in respect of all the mine workers, due to increase in the rate of the variable dearness allowance time to time, the expenditures always went higher and higher. The prices of the tools required for the work of raising also gone higher and higher. The management paid no heed to all this expenditures.

3. That on the other hand management is introducing a new pay scale with added benefits like (i) Mining Allowance; (ii) Transport subsidy; and (iii) Increase rate of H.R.A. and these facilities along with better scale of pay the management are offering only to the two category of workers engaged in (i) The work of sizing and stacking of Iron Ore; and (ii) Loading/unloading of the said ore into Trucks/tippers. All the rest categories of workmen as mentioned in earlier paras necessary for the execution of the work of both transportation and raising have been excluded and these resulted to great discrimination resulting to serious disorder among the workers in all the Iron Ore Group of mines of Bhilai Steel Plant, and these situation are now being exploited by the Nexalite leader, Shri Shankar Guha Neogi through his Union, Chhattisgarh Mines Shramik Sangh (C.M.S.S.)."

The Contractors have accordingly requested the Management that no further letter be issued in their favour and they serve this notice to close down their industrial establishment with effect from 21-5-80.

83. Ex. M/28 is a copy of the telegram which has been referred in the letter Ex. M/27. The telegram runs as thus. This telegram has been sent by various contractors to the management.

"All CMSS Members of Drilling Iron Ore Mines of Bhilai are on strike from sixteenth instant of demand of non implementation of departmentalisation from Tenth instant by Bhilai management situation explosive."

84. Now coming to the oral evidence adduced by the management, we find that the management has examined Shyam Sunder Srivastava, Manager (Technical) Ore, Mines and Quarries, Bhilai Steel Plant as MW-1, Dharendra Prasad Bajpai, Mines Manager, Dalli Mines, Dalli Rajhara as MW-2 and T. N. P. Rastogi, Dy. Manager (Personnel and I.R.) Dalli Rajhara Mine as MW-3. In substance, all these witnesses supported the case of the management. According to them, the management used to invite tenders and various contractors were given different work subject to their standards for a particular period. So far as the mechanised work is concerned, it is being done departmentally and the manual work is being carried out through contractors. Though about a year back (the witness was examined on 13-9-82) the drilling operations on the manual side were done through contractors but now it is being done departmentally.

85. MW-1 Shyam Sunder Srivastava has admitted in para 12 of the cross-examination that there is stipulation in the contract that the workman employed by the earlier Contractor shall be employed by a subsequent contractor. He could not deny in para 11 of his deposition that though Iron Ore Mining is done manually for last 20 years in Dalli Rajhara Mines which is exclusively meant for the B.S.P. He has no knowledge whether the claimant workmen in this case have or have not been working under different contractors for the last 20 years.

86. This witness further states in para 13 of his deposition that the mining operations done by the Contractors of the workmen's Cooperative Societies is supervised by the Manager (Mines), Mines Supervisor, Mines Mate, who are employees of the Management. He further admits in para 14 of his deposition that the Sampling Supervisors for quality control of the Iron Ore are appointed by the Management of Bhilai Steel Plant and the analysis is done by the Analysers who are employees of the Management. There is always stipulation that material of a particular quality will be accepted by the management (Para 15).

87. This witness further says in para 16 of his deposition that so far as the operation of mine is concerned the area to be operated by the workmen are allotted by officers of the management. He further says that all the mines are controlled by the employees of the B.S.P. This witness has admitted in para 23 of his deposition that if the Contractors leave the work assigned to them, then the work is required to be done by the B.S.P. He further says that the work in the Mines can be done departmentally also. This witness admits that as per Ex. M/4 which is one of the Contracts between the Contractors and the Management, para 10 of the same provides for stipulation regarding employment of workmen of the outgoing Contractor by the new contractor.

88. MW-2, Dharendra Prasad Bajpai, has also corroborated the fact that the mining raising of the Iron Ore is done manually. It is loaded manually. The raising and loading of the Iron Ore is carried on through the Contractors. This witness states in para 3 of his deposition that the new Contractor is free to employ his own labour force but generally labours employed by the outgoing contractor are employed by the new contractor also because of the experience and skill which such labourers possess. It may be pointed out at this juncture that these contract labours had no undergo certain training given by the management. (See written statement of the management and Ex. W/10).

89. This witness admits that the management issues instructions to the Contractors as to how Iron Ore is to be transported within a particular period. He says in para 6 and 7 of his deposition that the payment for raising, loading and transporting of Iron Ore are not dealt with by the Mines Manager. They are directly dealt with either by the Contractor or Society.

90. This witness admits in para 9 of his deposition that the management has to decide as to which workmen is to be permitted under that area which has to be operated. The staff members of the management go to the mining area for day to day supervision, to look after the safety of the workmen and the work carried on. He admits in para 10 of his deposition that all the registers are main-

tained by the management as well as contractors. He states in para 15 of his deposition that in case of any dispute between the workmen and the contractor/society the management does not intervene but he admits that in order to maintain industrial relation the management may give some advice to the Society/Contractor, but ultimately the matter is left to them to decide it.

91. Referring to para 21 of deposition of this witness, this witness admits that to his knowledge an incoming contractor/society has not engaged any labourers whose names were not entered in the Form 'B' Register. Management has Industrial Engineering Department which advice as to what a workman can do in his capacity as labourer in the particular work condition (Para 25). He further states in para 26 of his deposition that the Fair Bank Wage Scheme is applicable to the workers of the mine. One of the important conditions of the Scheme is that if a worker does not get employment for any fault which is not attributable to him then he is paid certain percentage of wages even without getting any work. He further admits in para 27 of his deposition that the management after taking into consideration of relevant factors fixes rate on which the workers are to be paid by the Contractor/Society. This witness in para 28 of his deposition states that the bonus under the Payment of Bonus Act is paid to the labourers employed by the Contractors/Society, the rate on which the bonus has to be paid is determined by the management after taking into consideration all relevant factors.

92. Coming to the testimony of MW-3, T. N. P. Rastogi, who is working Dalli Rajhara Mines as Dy. Manager (Personnel and I.R.) since August 1973, states that when a contractor closes his establishment the management insists that the workmen if retrenched by him should be paid retrenchment compensation and other legal benefits. Whenever contractors close their establishment they serve notice of closure to the Central Government as required by the I. D. Act. During the cross-examination in para 6 of his deposition, this witness has admitted that during the time of settlement between the workmen and the contractors, the management as a witness attended discussions, but he states that it is not within his knowledge that whenever the workers demand a revision of wages contractors desire management to revise the contract rate to meet the demand of the revised wages by the workmen. He admits that the liability for the payment of productivity bonus was determined on the basis of the terms and conditions of contract between the management on one hand and the contractors on the other (para 7). This witness felt awkward when questioned whether the settlements were arrived at between the management and the workers directly. He stated in para 8 of his deposition that he does not remember that many times the Contractor did not appear before the A.L.C. and in such event the matter was discussed by the management officer and the workers representative and the settlement used to be arrived at. He further says that he also does not remember that in such circumstances the Contractors were called subsequently and they were asked to agree to the settlement worked out in their absence.

93. This witness further admits in para 10 of his deposition that as per terms between the management and the incoming contractor, the incoming contractor has to, as far as possible, employ workers employed by the outgoing contractors for his contract work.

94. While marshalling the evidence on record which I have discussed above, I must start with Ex. W/1 which is a Settlement dated 9th August, 1966 and Ex. M/27 dated 20-5-80 as corroborated by the Telegram Ex. M/28 according to which five contractors had informed the management and union etc. closing down the work of raising and transporting Iron Ore in all the manual Iron Ore Mines of B.S.P. by all the Contractors of raising and transporting Iron Ore. From the very beginning i.e. the Settlement Ex. W-1 dated 9th August 1966 it was agreed upon between the Management and the Union that it is high time that contract labour system is abolished and the Contractor's workmen are absorbed under the direct Management of the B.S.P. There are various terms in Ex. W/1 which are relevant to appreciate factual position irrespective of the fact that the management is fully armed with equipments of law of contract showing

that there is a distinct relationship between the Principal Employer and Contractors and between Contractors and their employees. Thus apparently there is no direct relationship of employer and employee between the Principal Employer and the workmen of the Contractors whether they were working on drilling side or raising ore or loading trucks which are obviously part of mining operation and maintaining of statutory registers and discharging other obligations under the provisions of Mines Act etc. would not change the real status as between the Principal Employer and the Contractor's workmen. If they are Contractor's workers, they would be Contractor's workers irrespective of the fact that the statutory obligations are being discharged by the Principal Employer. The presence of intermediate contractors with whom alone the workers have immediate or direct relationship ex contract is of no consequence when on shifting the veil or looking at the conspectus of factors governing employment, we discern the naked truth though draped in perfect paper arrangement that the real employer is the Management and not the immediate Contractor. Myriad devices half hidden in fold after fold of legal form depending on the degree of concealment heeded, the type of industry, the local conditions and the like may be resorted to when labour legislation casts welfare obligations on the real employer based on Arts. 38, 39, 42, 43 and 43-A of the Constitution. And it is here that something more has to be seen.

95. It is an admitted position that the provisions of the Mines Act have been made applicable to all the workers concerned as deployed by the Contractors. Nevertheless a perusal of Section 2(h) (i) (4), (7) and (f) and (i)(IV) are note worthy in this regard. It is needless to repeat that all these workmen were not only working in the mine within the knowledge of the Manager but they were under direct control and supervision of the management relating to which I have already discussed above. Thus all these workmen were employed in the Mines though they are called as Contractor's workers. I may add here, inter alia, that number of workers were later on absorbed as workers of the management particularly engaged in drilling operation though the management put on a perfect garb to show that these workers were recruited and their names were invited through Employment Exchange and the management had nothing to do with their previous service record with the Contractors.

96. I may add here that the seniority list of the Contractor's workers was prepared by the management, their names were sent to the Employment Exchange and obviously sponsored by the management and after they were interviewed they were employed as workers of the management. Thus a part of settlement Ex. W/1 was executed after a long lapse of six years. These workers have demanded retrenchment compensation. But they never come forward with this intention for retrenchment benefits etc. after they were absorbed as workmen of the management.

97. It is true that the reference is vague inasmuch as it does not give out the names of the workmen relating to whom redressal is being sought and reference in general terms has been made to this Tribunal for adjudication. But it is not necessary that names of the workmen should be given in the terms of reference. Thus on this count, the reference cannot be treated as bad in law.

98. Government may not always specify the points upon which a reference is made; it may make a reference generally. In most cases, the order of reference is so cryptic that it is impossible to cull out therefrom the various points about which the parties were at variance leading to the trouble. In such cases, of course, the Tribunal can ascertain the points of dispute from the pleadings of the parties the exact nature of the dispute and decide them (Delhi Cloth and General Mills Co. Ltd. Vs. their Workmen—1967-1-L.J. p. 423—431 SC). But the Tribunal has to confine itself to the pleadings and the issues arising therefrom and it is not open to it to fly off at a tangent disregarding the pleadings and reach any conclusion that it thinks just and proper. Even the pleadings of the parties can be looked into only to clarify points of dispute set out in the order of reference; but cannot be allowed to alter the terms of reference or the basis of reference. There is nothing on record to show that the dispute raised during conciliation proceedings was different

than what the reference is. Thus this argument has no force that the reference is vague and therefore cannot be entertained by this Court. I accordingly record my findings that the reference as made is valid.

99. Reverting back to Ex. W/1, it is needless to say that the Contract Labour (Regulation and Abolition) Act 1970 applies to the management as per Section 1(4) of the Act and even if these workmen are contractors workers they are covered under the definition of workmen as defined under Section 2(i) of the said Act. Every worker who works for Principal employer to whom the provision of the Abolition Act are attracted is to be treated as the worker of the employer unless the establishment had secured the certificate of registration for the relevant period and it had employed contract labour through a licensed contractor. It is not a case here that employer or the contractors has no licence under the Contract Labour (Regulation and Abolition) Act, 1970.

100. But this fact has to be kept in mind that industrial adjudication generally does not encourage the employment of contract labour in modern times. Whenever a dispute is raised by the workmen in regard to employment of contract labour by the employer it would be necessary for the Tribunal to examine the merits of the dispute apart from the general consideration that in a given case the decision should rest not merely on theoretical or abstract objections to contract labour but also on the terms and conditions on which contract labour is employed and grievance made by the employee, in respect thereof. As in other matters of industrial adjudication so in the case of contract labour theoretical or academic considerations may be relevant but their importance should not be over estimated. In the case of *Standard Vacuum Refining Co. of India Ltd. Vs. Workmen* (1960-II-LLJ SC 948-952) it was observed that the contract in the case related to four matters but the reference was confined to one only viz. cleaning maintenance work at the refinery including premises and plant. So far as this work is concerned, it is incidental to the manufacturing process and is necessary for it and of a perennial nature which must be done every day. Such work is generally done by workmen in regular employ of the employer and there should be no difficulty in having regular workmen for this kind of work. Matter would be different if the work was of an intermittent or temporary nature or was so little that it would not be possible to employ full time workmen for the purpose. In these circumstances, it was held that the order of the Tribunal appears to be just and there are no good reason for interfering with it.

101. In the case of *Shibu Metal Works Vs. Workman* (1966 (12) FIR 226) it was observed that where the work was of permanent nature and part and parcel of the manufacturing process of the goods and labour engaged by the contractors was deprived of local facilities employed by other workers under the statute, the employment of contract labour was an unfair labour practice. As observed by the Royal Commission on labour, if the management has to discharge complex responsibility laid upon it by law and equity it would have full control over the selection, hour of work and payment to workers.

102. While explaining the distinction between the contractor and employee in the case of *Chintaman Rao Vs. State of M.P.* (AIR 1958 SC p. 388) it has been observed that an employee unlike the contractor is under the control and supervision of the employer in respect of the details of work. The contractors, on the other hand, is required to do specific work for other persons without submitting himself to their control in respect of the details of work. The relation to master and servant and principal and agent may be said to be as thus :—

"A principal has a right to direct what work the agent has to do but a master has further right to direct how the work has to be done."

(*Lakshminarayan Ram Gopal Vs. Government of Hyderabad* (AIR 1954 SC 364). Supreme Court Labour and Services Digest (1950—1978) p. 455 by Surendra Malik.

103. The Contract Labour (Regulation and Abolition) Act is a piece of social legislation for welfare of labourers and should be liberally construed (*Lionel Edwards Ltd. Vs. Labour Enforcement Officer* (1977 Lab. I.C. 103/ Calcutta).

104. While dealing with the question as to who is the employer in the case of *Maimonta Enterprises vs. State of U.P.* (1978-II-LLJ p. 65) it has been observed that where the management or the intermediary contractor is the employer,—whether *vinculum juris* existed between the management and the workmen, it was held that in the *Laissez Faire* economy based on common law and the Contract Act, the position may be different but in the industrial branch of Third World Jurisprudence based on social justice, mere contracts are not decisive and a complex of considerations are relevant in deciding the real dispute. (1978-II-LLJ p. 397 SC—Labour Law Journal Digest, Editors LLJ Madras, Vol. 9, 1976—82 p. 319).

105. In the case of *Western India Automobile Association Versus the Industrial Tribunal, Bombay and others* (1949 Federal Court p. 111) their Lordship have gone out to say that the Tribunal can direct in the case of dismissal that an employee shall have a relationship of employment with the other party although one of them is unwilling to have such relationship.

106. The discretion which an Industrial Tribunal has must be exercised in accordance with the well recognised principle. There is undoubtedly a distinction between Commercial and Industrial Arbitration. As has been pointed out by Ludwig Teller *Labour Dispute and Collective Bargaining* Vol. 1 page 536, "Industrial arbitration may involve the extension of an existing agreement, or the making of a new one, or in general the creation of new obligations or modifications of old ones, while commercial arbitration generally concerns itself with interpretation of existing obligations and disputes relating to existing agreements. "A court of law proceeds on the footing that no power exists in the courts to make contracts for people, and the parties must make their own contracts. The courts reach their limit of power when they enforce contracts which the parties have made. An Industrial Tribunal is not so fettered and may create new obligations or modify contracts in the interests of industrial peace, to protect legitimate trade union activities and to prevent unfair practice or victimisation. We cannot, however, accept the extreme position canvassed before us that an Industrial Tribunal can ignore altogether an existing agreement or existing obligations for no rhyme or reason whatsoever (*Rohtas Industries Ltd. Vs. Brijnandan Pandey and others* (1956-II-LLJ p. 444).

107. According to Mr. Justice Holmes, social justice is and inarticulate major premises which is personal and individual to every court and every judge. Inspired by this dictum, Bhagwati J. speaking for the Supreme Court in *Mur Mills Ltd. Vs. Suti Mill Mazdoor Union* (1955-I-LLJ p. 1(6) SC) said :—

"the concept of social justice does not emanate from the fanciful notions of any particular adjudicator but must be founded on a more solid foundation."

But in a later case the Supreme Court assigns a more positive role to the concept of social justice in industrial adjudication. Gajendragadkar J. persistently emphasised that the social and economic justice is the ultimate ideal of industrial adjudication and that social and economic justice has been given a place of pride in our Constitution. In *Rai Bahadur Diwan Badridas Vs. Industrial Tribunal, Punjab* [1962-II-LLJ p. 366 (370)] speaking for the majority by further emphasised that—

"the doctrine of the absolute freedom of contract has thus to yield to the higher claims for social justice... under the impact of the demand of social justice the doctrine of absolute freedom of contract has been regulated...."

In other words, of Hidayat Ullah J. Social justice is not based on contractual relations and is not to be enforced on the principles of contract of service. It is something outside these principles, and is invoked to do justice without a contract to back it. (*Rushtriya Mills Mazdoor Sangh Vs. Apollo Mills Ltd.* [(1960-II-LLJ p. 263 (271)SC]).

108. Industrial Jurisprudence is not static, rigid or textually cold but dynamic burgeoning and warm with life. It answers in emphatic negative the biblical interrogation. What men is there of you whom if his son asks bread will give him a stone? The Industrial Tribunals of India in areas unoccupied by precise block letter law, go by the Constitutional mandate of social justice in the claims of the "little people". It may be one thing to settle a dispute by the agreement which effects only the interest of the parties to the agreement; it is quite a different thing for this Court to lay down a rule which will have a wider application. It would, therefore, be of little significance that these little people could not advance their pleadings without vagueness and could not give all the data of their service including the names of the workmen and the capacity in which they have been working & since when.

109. While dealing with the definition of "workmen" vis-a-vis 'contractors' employee or the employee of the principal employer' in *Basti Sugar Mills Ltd. Vs. Ram Ujagar* (1963-II-L.J. 447 SC) it has been observed that the workers employed by a contractor to remove press-mud was considered ordinarily to be a part of the sugar factory. Likewise, in *Saraspur Mills Co. Ltd. Versus Ramanlal Chimanlal* (1973-II-L.J. 130-132-133 SC) the workers of a canteen run by a cooperative society were held to be the workmen of the factory because the factory was under an obligation to maintain and run the canteen for its employees under the factories Act and rules thereunder. In this regard, discussion at para 11 in the case of *All India Railway Institute Employees Association Vs. Union of India* (1990 S.C.C. Vol. 2, Part V, page 342) is note worthy.

110. Various tests have been applied to find out the relationship of employer and employee. In the modern world industrial operations have become complex and complicated and for the efficient successful functioning of any industry several 'incidental' operations are called in aid and it is the totality of these operations that ultimately constitutes the industry as a whole. Proof of existence of relationship can be made out as fairly and fully by circumstantial evidence as it can be by evidence which is direct. While the employee, at the time, when his services were engaged need not have known the identity of employer, there must have been some act or control by the parties recognised one and another as master and servant (See page 471 Malhotra Vol. I).

111. In order to determine the existence of relationship of independent contractor or employee "few problems in the law have given greater variety than the case arising on the borderline between what is clearly an employer-employee relation and what is clearly an independent entrepreneurial dealing", for "it is often easy to recognise a contract of service when you see it, but difficult to say where the difference lies". Problems of this kind have come before the courts with the advent of social legislation in England during the last ninety years in India during the last fifty years. Consequently, a considerable body of case law has developed under the recent social welfare legislation. There has been extra-ordinary variety of relationship which have come in force at one time or another, and it is now clear that it is impossible to define a contract of service in the sense of stating a number of conditions which are both necessary to, and sufficient, for the existence of such a contract. This position has been succinctly stated in the American Jurisprudence. It is the element of control of the work that distinguishes the relationship of master and servant from the independent contract relationship. The most important test in determining whether one employed to do certain work is independent contractor or mere servant is the control over the work which is reserved by the employer. Thus the most satisfactory test is to ascertain as to who is the employer at any particular time is to ask who is entitled to tell the employee the way in which he is to do the work upon which he is engaged.

112. In the words of Roskill, J.—"control is obviously an important factor." "The control of the management, which is necessary element of the relationship of master and servant, is not directed towards providing or dictating the nature of the article to be produced or the work to be done, but refers to the other incidents having a bearing on the process of work the person carries out in the execution of the work.

The manner of work is to be distinguished from the type of work to be performed."

113. The distinction is also drawn between "contract for service" and "contract of service". The distinction is, in the one case the master can order or require what is to be done, while in the other case he can not only order or require what is to be done, but how it shall be done. In the words of Lord Denning "under the contract of service, a man is employed as a part of the business, and his work is done as an integral part of the business; whereas, under a contract for service, his work, although done for the business, is not integrated into it but is only accessory to it."

114. What in fact matters is lawful authority to command so far as there is scope for it. And there must always be some room for it only in incidental or collateral matters. The question, therefore, is not whether the control is exercised; it is where is the right of control? and the distinction between the physical control and the right of control is important. The control includes the powers to decide the term, the way it will be done, the means employed in doing it, the time and place where it shall be done. All these aspects of control must be considered in deciding whether the rights exist in a sufficient degree to make one party a master and the other his servant. However, it has for long been apparent that analysis of the extent and the degree of such control is not in itself decisive. It is left to the courts of law to decide what the contract of employment or service is in the circumstances of each case.

115. Halsbury describes the test : "to distinguish between an independent contractor and the servant, the test is whether the employer retains the power, not only of directing what work is to be done, but also of controlling the manner of doing the work. If a person can be overlooked and directed in regard to the manner of doing his work, that person is not a 'contractor' (Halsbury's Laws of England, 3rd Edn. Vol. 25, p. 498) (See Malhotra, Vol. 1, pages 470-477).

116. Having noticed the entire spectrum of case law on the subject it has a caution to the employer that in view of the changing socio economic environment the legal position as regards the status of contract labourers cannot be shapferdized and since the socio economic justice is, the signatures tune of the preamble of the Constitution, they would in time to come have to be conceived as full workmen of the establishment if prescribed formalities are lacking. The tone and tamper of time shall also warrant this. The old theory of job of judges to confine to only interpreting the law not to make law has long been bundled of the stage like a broken tool. We should therefore be prepared to face the realities that would unfold on this front. The dice is over loaded against the employer. It may be a tragic scenario that stairs the employers in fact but in this vast changing society when the social justice is to be given to the poorer, this Court shall not sit to find itself to the mere contract, but shall create contract.

117. Now the question arises as to what shall be the status of the contract labour vis-a-vis the principal employer in view of the above discussions of facts and law and the entire circumstances of the case. Before drawing our conclusion on the factual position I will end with certain circumstances of the case which appear to have resulted in the dispute and in this respect Ex. M/27 dated 20-5-1980 is note worthy, according to which, the Contractors gave a notice of closing down the contract and I have reproduced paras 2 and 3 of the said document in para 82 of the judgment which shows that the management having unilaterally increased the rate of wages of certain categories of workmen along with certain other facilities which they could not cope up, therefore they were closing down their contract. Later as per Ex. W/19 dated 26-3-1983 certain agreements were arrived at between the representative of the management and the representative of the workmen unilaterally regarding payment of annual bonus for the year 1981-82 and grant of leave facilities to Contractors/Society's workmen. I am reproducing these facts just to point out that even wages of the workmen were determined by the management without intervention of the Contractor and in this respect I will again refer to Ex. W/4 dated 7-10-1971, according to which the retrenched workmen who were on the rolls of certain Contractors were not only

assured by the Company to be employed by the incoming Contractors but the period during which the workmen had not worked for want of new contractor was not to be treated as break in service for the purpose of seniority. M.W.2, Dharendra Prasad Bajpai, has admitted in para 21 of his deposition that to his knowledge an incoming contractor/society has not engaged any labour whose name was not entered in Form 'B' register which is an admission of the fact that only those workmen were employed by the incoming Contractors who had worked with the earlier Contractors. This fact further confirms that seniority list of the workers of the Contractors was prepared by the management and in this regard once again reference is made to Ex. W/12 and para 44 of the judgment.

118. It is true that there are various documents in between the parties to show that certain disputes were raised by the Union before the Contractors and Settlements were arrived at between them, but according to the evidence as adduced by the workmen, these Settlements were arrived at under the dictate of the management and the management in fact commanded the Contractors to arrive at the Settlements relating to which I have already discussed above.

119. These facts could not be denied by the witnesses for the management and they just avoided to answer these questions by saying that they do not remember about it as I have already discussed above in para 92 of the judgment (See also M.W. 3, T.N.P. Rastogi's deposition paras 6 & 8).

120. Not only from the material on record, but also from the admission of MW.1, Shyam Sunder Srivastava (para 23) it is evident that if the Contractors had left the work assigned to them then the work was required to be done by the B.S.P. He further confirms this fact stating that the work in the mine can be done departmentally also.

121. Thus it is obvious that the work assigned to the Contractor could be conveniently done by the management Company itself and the entire work was part and parcel of the mining operation which is the subject of this reference. It is needless to mention that all this work was of perennial nature.

122. To sum up the evidence, we can summarise the following important salient features of this case:—

- (i) The work done by the Contractors was of perennial nature.
- (ii) This work could be carried out by the Management itself & it was agreed between the Management and the Union as early as in the year 1966 as per Ex. W/1 that contract labour system will be abolished and later on contract system was abolished so far drilling operation was concerned.
- (iii) The incoming contractors were to employ the workmen of the outgoing contractors and irrespective of the change of the contractors whether it related to raising of Iron Ore or transportation of the same or otherwise the same workmen continued to work. It was only those workmen whose names found place in Form 'B' register of the Company could be employed by incoming contractors. (See once again M.W.2 Dharendra Prasad Bajpai para 21 in the entire context & evidence). Thus there was continuity of service of those workmen irrespective of the change of contractors and this fact can be further appreciated from Settlement Ex. W/4.
- (iv) Wages of these workmen were fixed and revised by the Management including other benefits given or to be given to these workmen without intervention of the Contractors and if the settlements had arrived at between the Contractors and these workmen they took place under the direction and dictation of the Management which follows that the Management had full control over wages and other benefits of the workmen and as I have pointed out above a saturation stage had come where contractors could not work on the dictates of the Management, they closed down their contracts.

(v) As per special conditions as also from the oral evidence and other documents it is very clear that it was the management to decide as to which work has to be done by which contractor & workmen at which place, during which time and what quality of Iron workmen had to work within the limited conditions Ore is to be given. Thus the Contractors & their laid down by the Company which would substantially amount that Contractors were acting as Agents of the Company and not otherwise. In this way, the Management was shirking from its responsibility to take up the entire work which is not only the intention of the Contract Labour (Regulation & Abolition) Act, 1970 but also of the Constitution and the social justice relating to which I have discussed in details above. That apart, it was a part of Settlement Ex. W/1 which was to be implemented.

(vi) From the above discussions and evidence, it is also clear that the Company used to decide the number of workmen to be engaged for a particular work in the mine.

(vii) They were given training also for operating the mine by the Management (See Clause 32 of General Conditions of Contract & Paras 4B(i)(k) of written statement of the management at page 10).

(viii) The services of workman/workmen of the Contractors could be & used to be transferred to the services of other Contractors by the Management unilaterally. (See particularly Ex. W/14).

(ix) The management had full economic control over these workmen and as I have already pointed out because the Contractors could not stand by the conditions of service revised by the Management they had to stop the work thereby resulting in the unemployment of the workmen which follows that it was the Principal Employer who could virtually choke off the workmen from service. From the above discussions, it is also very clear that the subsistence, skill and continued employment depend upon the Principal Employer.

(x) It is not the case where the workmen were not aware of the Principal Employer or they had no direct relationship with the Principal Employer because, as I have already pointed out above, there are various Settlements which took place between the Principal Employer and the Contractor's workmen without the intervention of the Contractor who had employed these workmen, according to the Management. In other cases, the Principal Employer directly made Settlements with the Contractor's workers without the knowledge of the Contractor and thereafter Contractor had to sign and abide by the Settlements arrived at between the Management and the Contractor's workers. Thus it cannot be said that there was no direct relationship between the Contractor's workmen and the Principal Employer, but there was something much more than this as has been pointed out in the case of Workmen of Food Corporation of India and Food Corporation of India (supra) and as such they can certainly be deemed to be the workmen of this third person viz. the Company.

(xi) B.S.P. used to give a list of workers who were to be employed and raising Contractors did not have their own workers (See Contractors' witness supra).

(xii) The B.S.P. or Company used to supervise work done by the Contractors. Management used to detain them on duties according to the exigencies and the quality control was effected through the Geologist of the B.S.P. Foremen were appointed by the B.S.P. to supervise the operation of these workmen and Form 'B' Register in respect of these workmen with the Contractors was maintained by the B.S.P. (See W.W.1 Pukhraj Jain and para 57 of the judgment).

- (xiii) Raising Contractors used to get 3.7% plus 4% for supervision of the labour employed under the Raising Contractor. This percentage was calculated on the basis of the wages of the persons employed. The functions of the Contractors were only to disburse the payment to the labourers. They were to prepare wages slip, supply the drinking water etc. This applied to raising workmen as also to transport & contract labourers (See Contractors' witness Pukhraj Jain's deposition).
- (xiv) Contractors had no choice to fix the wages of the workmen because the Management would only inform the Contractors about the enhancement in wages and the Contractors had to pay wages accordingly. (See Contractors' witness Pukhraj Jain's deposition and para 59 of the judgment).
- (xv) Management at sometime informed Contractor that certain labourers used to be suspended because of their certain misconduct and the Contractor would suspend them. (See deposition of Contractors' witness Pukhraj, last but 1 para and para 61 of the judgment).
- (xvi) Contractors could not change the terms and conditions of wages of the workmen as is evident from Ex. M/6 and Ex. M/7.
- (xvii) Though earlier drilling operations were done by the Contractors, but, later on, the contract system was abolished and it was taken over by the Management & certain workmen were absorbed by way of fresh employment.
- (xviii) M.W.1, Shyam Sunder Srivastava, could not deny in para 11 of his deposition that though Iron Ore Mining is done for last 20 years in Dalli Rajhara Mine and it is exclusively for B.S.P. He expressed no knowledge whether the claimant workmen in this case have or have not been working under different contractors for last 20 years. (Para 12 of his deposition as discussed in para 85 of the judgment).
- (xix) There was already stipulation that the material of particular quality will be accepted by the Management (M.M. 1, Srivastava's deposition para 15).
- (xx) So far the operation of mine was concerned, the area to be operated by the workmen was allotted by the officers of the Management.
- (xxi) Contractor's workmen were experienced and skilled labourers and that was also one of the reasons that incoming contractors had to reemploy the workmen of the outgoing contractor as deposed by M.W.2, Dharendra Prasad Bajpai in para 3 of his deposition, apart from the mandate of the Company as pointed out.
- (xxii) Management has Industrial Engineering Department which would advise as to what a particular workman will do in his capacity as labourers in the particular work condition (para 25 of deposition of M.W.2 Bajpai) and accordingly the Management has to decide as to which workman is to be permitted to work under which area which has to be operated (para 9 of M.W.2, D. P. Bajpai).
- (xxiii) Fall Back Wages Scheme was applicable to the workers of the mine and one of the conditions of the Scheme was that if a worker does not get employment which is not attributable to him then he is paid certain percentage of wages even without getting the work (M.W. 2, D. P. Bajpai's deposition para 26).
- (xxiv) Management after taking into consideration of the relevant factors fixes the rate of wages on which workers are to be paid by the Contractors/Society. (M.W.2, Bajpai's deposition para 27).
- (xxv) Obviously, the work was not only a permanent one but part and parcel of the mining process of the

Management and the Contractor had to work under the control and supervision of the employer in respect of the details of work. Principal Employer had not only right to direct what work had to be done by the Contractor but his workmen also had to do, under the direction of the Management. It had further right to direct how the work had to be done.

- (xxvi) The above facts determine the test whether one is employed to do certain work is independent Contractor or mere servant/agent and has only to look after the work given by the employer. The above facts also show as to who were the employer to detain the employee and where and in which manner he has to do his work for which he is engaged. Above facts also reveal as to whether the workmen are employed as a part of the business for the contract of service and his work is done as integral part of the business.

123. Thus it would determine whether it was a "contract for service" or "contract of service. (In the above discussions the word 'contractors' includes the societies which worked as contractors).

124. Applying the law on the above facts, it stands established that in the facts of this case the relationship of employer and employee existed between the Management of the B.S.P. i.e. the Principal Employer and labourers engaged by the Contractors or Societies for doing the various jobs of the Principal Employer. (Finding relating to workmen already employed by the Company has been separately dealt with).

125. Issue No. 1(b).—Now this issue can be conveniently divided into two parts. Having held that relationship of employer and employee existed between the Management of the Bhilai Steel Plant whether (i) B.S.P. is liable for ensuring continuity of service and (ii) Consequential terminal benefits in the form of payment of retrenchment compensation and gratuity to the labourers engaged by the Contractors.

126. I will first deal with the second part of the Issue. From the pleadings and evidence on record it can be well gathered that this part is related to those workmen of the Contractors who were absorbed in the year 1972. This fact is almost undisputed. (See statement of claim by workmen, para 7 and rejoinder of the management paras 2 & 7).

127. Evidence reveals that these persons were actually re-employed by the Management and eight years after their absorption or re-employment, as the case may be, this dispute was raised by the Union. There is sufficient material on record showing that the workman had voluntarily joined the management and they never made any such demands from the Management or the Contractors. They never made any claim of retrenchment compensation or any other benefits as alleged by the Union. After their selection and employment as a departmental workman they did not even approach the Contractors either for gratuity or for retrenchment compensation or for payment of any other claim (W.W.1, Brijlal, para 9). According to W.W.2, Tulsiram, raising mazdoor in Dalli Rajhara Mines since 1970 and who has joined Maha Maya Cooperative Society) one of the Contractors) states in para 11 of his Deposition that there is no subsisting dispute between them and their Society i.e. the Contractors. At this juncture, it must be pointed out that these benefits are not being sought from the Contractors under the Schedule of reference and as such this Tribunal would not go beyond the Schedule of reference to fasten this liability with the Contractors. Base of this claim is employer-employee relationship between the Management & Contractors/Societies workmen.

128. Thus the concerned workmen having voluntarily joined the management and having not claimed the continuity of service rendered with the Contractors at that time claiming direct relationship of employer and employee between the Management and the Contractors employees, rather joined the management as new assignment apparently waiving all their claims, if any, they are now estopped from raising

this point after such a long lapse of time. They were not retrenched by the Contractors or the Societies, as the case may be. If that was so, this point could be well raised during the settlement Ex. W/6 dated 3-10-73. If they were not retrenched, they are not entitled to retrenchment compensation under Sec. 25F of the I.D. Act. Therefore, these workmen who had joined the management are not entitled to any terminal benefits in the form of retrenchment compensation for the period they were engaged by the Contractors. The question of payment of Gratuity has to be decided under the Payment of Gratuity Act as laid down in the case of State of Punjab Vs. the Labour Court, Jullundur & others (AIR 1979 SC 1981). But here this Tribunal has just to give a general finding as to the claim of the workmen concerned relating to consequential benefits including payment of Gratuity also (matter under reference). Thus this Tribunal is not ceased of the jurisdiction to give a general finding on this point which may include the Gratuity benefits also. It is true that this Court has held that relationship of employer and employee existed between the Management of B.S.P. and the labourers engaged by the Contractors for doing various jobs, but the fact remains that these workmen had voluntarily joined the Management in a new capacity altogether and obviously in any case they were not retrenched. The claim of retrenchment benefits of these workmen can also not be allowed because one hand they are claiming continuity of service and at the same time claiming consequential terminal benefits in the form of retrenchment compensation and gratuity. Obviously, their services were never terminated or retrenched and therefore these workmen would not be entitled to any terminal benefits in the form of retrenchment compensation. So far the question of payment of Gratuity to these labourers is concerned, it can be decided independently and this Tribunal can only observe that if they are entitled to Gratuity in view of my above findings, they should be paid the amount of Gratuity accrued to them. Obviously, I must point out that the Union has not been able to give details of the workmen as regards their name and the specific period of their employment and there is no material on record to give a specific finding on this point except that these workmen are serving with the Contractors right from the beginning i.e. for last 15 years (from the date of statement of claim) as pleaded by the Union in para 2 of the statement of claim and this fact has not been controverted by the Management.

129. The management has maintained registers and it is the duty of the management to find out in consultation with the Union as to whether these workmen are entitled to Gratuity or not and if they are entitled to Gratuity what amount they should be paid.

130. It may be added here, inter alia, that some of the workmen have gone out of employment either on superannuation or death or for other reasons. Their cases be also decided in the light of these observations in accordance with Payment of Gratuity Act, by the Company and payment made. Hence non-joinder of remaining Contractors to this reference, does not affect this case and the reference is not bad in law on this count. The question of giving these benefits to those workmen who have availed of the same from respective Contractors, need no consideration.

131. So far as the remaining employees are concerned, who have neither been given retrenchment compensation by the Contractors nor they have accepted the retrenchment compensation, they would be entitled to continuity of service and all consequential benefits from the date of their retrenchment or termination of service from the management and they would be deemed to be the employees of the management from the year 1972 with notional seniority from that year, because undisputedly various workmen were absorbed by the management at that time and obviously with the concurrence of the Union and to avoid disparity. The date and month has to be sorted out by the management in consultation with the union.

132. It is most unfortunate that the references are made so vague and if they are not answered and justice is not delivered despite all these vagueness a new reference is bound to come forward and the fate of these workmen will be hanging for another lapse of time, for even this case took nine years for decision and before that it was being dealt with by the Conciliation Machinery.

133. As I have already observed above that in most cases the order of reference is so cryptic that it is impossible to cull out the various points about which the parties were at variance leading to trouble. Government may not always specify the points upon which the reference is made it may make a reference generally in most cases. (O. P. Malhotra, Vol. 1, Fourth Edition, pages 684 & 687).

134. In this regard, in the language of Krishna Aiyer J.—“The general principle, in construing the public orders made by public authorities in exercise of statutory power, is that they must be construed objectively with reference to the language used in the order itself, because such orders are meant to have public effect and are intended to affect the actions and conduct of those to whom they are addressed.”

135. The Tribunal, therefore, must attempt to construe the order of reference not too technically or in a pedantic manner, but fairly and reasonably. In other words, the Tribunal not only has the power but a duty is cast on it to find out what was the real dispute which was referred to it and to decide it and not to throw it out on a mere technicality. Even if the phraseology of the order of reference is inelegant, the Tribunal should look to the substance rather than to the form of the order of reference. The words ‘order of reference itself’ do not mean ‘order of reference only.’ The scope of the order of reference gets crystallized from the statements of the respective cases of parties (State of Madras Versus C. P. Sarathy—(1953) 1 LII p. 174 (180) SC). It would involve no hardship if the reference also is made in wider terms provided, of course, the dispute is one of the kind described in Sec. 2(k) and the parties between whom such dispute has actually arisen or is apprehended in the opinion of Government are indicated either individually or collectively with reasonable clearness. (Malhotra's supra pages 693-694). In the instant case, the parties are well aware of the real dispute which can be well gathered from the pleadings & evidence adduced (See also para 98 of the judgment).

136. Thus in order to avoid the multiplicity of the proceedings which may result in hardship to the little people this Tribunal has taken burden of answering this reference.

137. Accordingly I give my findings to this Issue as follows :—

- (i) The Management of B.S.P. is liable for ensuring continuity of service in respect of the workmen employed in Dalli Raihara Group of Mines through the successive contractor since 1972 by way of absorption of those workmen who have neither received nor have been given retrenchment compensation and the date of inter se seniority shall be fixed by the Management in consultation with the Union under intimation to the workman concerned with back wages and consequential benefits from the date of their discontinuity of service.
- (ii) The workmen who have already been employed by the Management of B.S.P. shall not be entitled to retrenchment compensation.
- (iii) All the above two categories of workmen mentioned in para (i) & (ii) above of my findings shall be entitled to Gratuity for the period they have worked prior to their absorption/continuity in the year 1972 (date and period of their past service is to be worked out) in accordance with the Payment of Gratuity Act, if entitled and if not paid by the successive contractors from the Management irrespective of any contract to the contrary including those workmen who have gone out of employment due to superannuation/death or otherwise as provided under the Law.

- (iv) The Contractors/Societies workmen gone out of employment after 1972 due to superannuation/death or otherwise shall also be entitled to Gratuity, if any, as per law.
- (v) The Principal Employer, if entitled, may choose to recover the amount of Gratuity as paid as per above findings from the respective Contractors/Societies through the proper form.
- (vi) Other terminal benefits are not considered as they do not form part of reference and are beyond the scope of reference. (Obviously discontinuity of service/retranchment from service without complying with the provisions of I.D. Act is void ab initio which is a settled law).

138. Issue No. 2.—The claim of payment of Gratuity cannot be considered in the proceedings on a reference under the provisions of the I. D. Act, as I have already pointed out above referring to the case of State of Punjab (supra) but, at the same time, while granting the relief the employer shall have to consider the claim of Gratuity and this Tribunal can certainly direct the employer to find out the claim of the Gratuity of the workmen concerned and pay them accordingly as I have already held above. I have fastened this liability to the Principal Employer in view of my finding that the Contractors workmen are the workmen of the Principal Employer irrespective of the contract to the contrary, if any. The Issue is answered accordingly.

139. Issue No. 3.—Various objections have been raised by the Management as referred to in para 14 of the judgment and by the Contractors also. I have already held that the Company is the employer of the workmen employed by the Contractors/Societies and the workmen are the workmen under the provisions of the I.D. Act. I have already pointed out that the case relates to mining operation of the workmen which is an 'industry' under the I.D. Act and therefore this is an industrial dispute. Without going into the details of these objections, I will firstly say that these are technical objections and secondly even if they are substantive objections they do not stand in the light of my above discussions and findings. I therefore refraining myself to discuss in details hold that the present reference is maintainable and the objections raised by the Management of Bhilai Steel Plant as detailed in para 14 of the judgment are not tenable.

140. Issue No. 4.—I have already discussed that the Contractors other than those specified in the Schedule are not necessary parties to this reference. Issue is, therefore, answered in the negative.

141. Issue No. 5.—(a) Relationship of employer and employee existed between the Management of B.S.P. as Principal Employer and labourers engaged by the Contractors/Societies for doing various jobs of the Principal Employer

(b) Accordingly the Management of B.S.P. is liable for ensuring continuity of service in respect of the workmen employed in Dalli Raihara Group of Mines through the successive contractors since 1972 by way of absorption of those workmen who have neither received nor have been given retrenchment compensation and the date of inter se seniority shall be fixed by the management in consultation with the union under intimation to the workmen concerned with back wages and consequential benefits from the date of discontinuity of service.

(c) All these workmen who have already been employed by the Management of B.S.P. in the year 1972 shall not be entitled to retrenchment compensation.

(d) All these workmen shall be entitled to Gratuity for the period they have worked prior to their re-employment/absorption/continuity in the year 1972 (date and period of their past service is to be worked out) in accordance with the Payment of Gratuity Act if so entitled under the said Act and if not paid by the successive Contractors by the management irrespective of any contract to the contrary

including those workmen who have been out of employment due to superannuation death or otherwise as provided under the Law.

(e) The Contractors/Societies workmen gone out of employment after 1972 due to superannuation/death or otherwise shall also be entitled to Gratuity, if any, as per Law.

(f) No order as to costs.

Award is passed accordingly.

Dated : 25-7-1990

V. N. SHUKLA, Presiding Officer

[No. L-26011/10/80-D.III (B)]

V. K. SHARMA, Desk Officer

नई दिल्ली, 13 अगस्त, 1990

का. आ. 2309 :— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार, मैसर्स भारत कोकिंग कोल लि. की भागाबन्द कोलियरी

के प्रबन्धन में सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2), धनबाद के पंचपट को प्रकाशित करता है, जो केन्द्रीय सरकार को 6-7-1990 को प्राप्त हुआ था।

New Delhi, the 13th August, 1990

S.O. 2309.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bhagaband Colliery of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government on 6-8-1990.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 141 of 1986

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

PARTIES :

Employers in relation to the management of Bhagaband Colliery of Messrs Bharat Coking Coal Limited and their workmen.

APPEARANCES :

On behalf of the workmen—Shri S. Bose, Secretary, R.C.M.S., Dhanbad.

On behalf of the employers—Shri B. Joshi, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad the 30th July, 1990

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. I-20012(339) 85-D.III(A), dated, the 18th March, 1986.

SCHEDULE

"Whether the demand of Rashtriya Colliery Mazdoor Sangh that the management of Bhagaband Colliery of M/s. Bharat Coking Coal Limited should give promotion as Senior Overman to their workman, Shri R. K. Ram, on the basis his correct seniority to be counted from the date on which he was stated to have been posted to work as Overman, is justified? If so, to what relief is the concerned workman entitled and from what date?"

In this case both the parties made their appearance but did not file W.S. documents etc. Subsequently both the parties appeared before me and filed a petition of compromise under their signature. I heard them on the said petition of compromise and I do find that the terms contained therein are fair, proper and beneficial to both of them. Accordingly I accept the same and pass an Award in terms of the petition of compromise which forms part of the Award as Annexure.

I. N. SINHA, Presiding Officer.
[No. L-20012/339/85-D.II(A)/IR(Coal. I)]

ANNEXURE A

BEFORE THE PRESIDING OFFICER, CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL NO.-2
AT DHANBAD

Reference No. 141/86

Employers in relation to the management of Bhagaband
Colliery

AND

Their workmen.

Petition of Compromise

The humble petition on behalf of the parties to the above reference most respectful shewth :—

1. That the above dispute has been amicably settled between the parties on the following terms :—

TERMS OF SETTLEMENT

- (a) That the concerned workman Shri R. K. Ram will be deemed to have been promoted with effect 3-10-1972 as Overman instead of 1-7-73 wrongly mentioned in the seniority list dated 21-8-1982.
- (b) That Shri R. K. Ram will be deemed to have been promoted as Sr. Overman from the date his contemporaries commencing work as overman with effect from 3-10-1972 and juniors to him were promoted as Sr. Overman.
- (c) That his fixation of basic wages on 1-5-1990 will be done taking into considerations his seniority as Overman and Sr. Overman as per the clauses (a) and (b) mentioned above.

That the concerned workman will not claim for difference wages or any other benefits for the period prior to 1-1-1987 save and except his notional seniority and rational fixation of basic as per the formula mentioned above.

2. That in view of the above settlement there remains nothing to be adjudication.

Under the facts and circumstances stated above the Hon'ble Tribunal will be graviously pleased to accept the terms of
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settlement as fair and proper and be pleased to pass the Award in terms of the settlement.

For the Workman.

1. Sd/- Illegible
2. Sd/-Illegible

For the employers

1. Sd/- General Manager
2. Sd/- Dy. Chief Personnel Manager

Witness :

1. Sd/- Illegible

का० ग्रा० 2310:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण, में केन्द्रीय सरकार, मी० भारत कोकिंग कोल लि० का सुदामडी क्षेत्र के प्रबन्धतंत्र से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध औद्योगिक विवाद में केन्द्रीय अधिकरण, (सं० 1) धनबाद के पंचपट को प्रकाशित करती हैं जो केन्द्रीय सरकार को 6-8-90 को प्राप्त हुआ था।

S.O. 2310.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Sudamdih Area of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government on the 6-8-90.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under Section 10(1)(d) of the
Industrial Disputes Act, 1947

Reference No. 53 of 1984

PARTIES :

Employers in relation to the management of Sudamdih
Area of Messrs Bharat Coking Coal Limited.

AND

Their workmen.

APPEARANCES :

For the Employers/B.C.C.L.—Shri R. S. Murthy,
Advocate.

For M/s. Fauji Koyla Carriers Pvt. Ltd (Impleaded
Party)—None.

For the Workmen—Shri B. N. Sharma, Joint General
Secretary, Janta Mazdoor Sangh.

STATE : Bihar

INDUSTRY : Coal

Dated, the 25th July, 1990

AWARD

By Order No. L-20012(145)84-D.II (A), dated the 2nd August, 1984, the Central Government in the Ministry of Labour, has in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Sudamdih Area of Messrs Bharat Coking Coal Limited, in denying payment of retrenchment compensation to the contractors' workers named in the Annexure below is justified? If not, to what relief are these workmen entitled?"

ANNEXURE

Sl. No.	Name	Designation	
1.	Jarnil Singh G	Driver	58. Gumna Ram
2.	Gurdeep Singh	"	59. Umesh Chandra Pandey
3.	Hakim Singh	"	60. Narayyan Chaudhury
4.	Hari Singh	"	61. Mahendra Singh
5.	Nahar Singh	"	62. Harmeet Singh
6.	Gurmeh Singh (P)	"	63. Prabhu Nath
7.	Jarnil Singh	"	64. Soobachan Prasad
8.	Rawel Singh	"	65. Dilip Kumar Dobey
9.	Dhan Singh Rana	"	66. Shiv Nath Roy
10.	Balbair Singh	"	67. Jaggan Nath Roy
11.	Satyanam Singh	"	68. Lok Nath
12.	Laxmi Singh	"	69. Ajit Kumar
13.	R. C. Dev	"	70. Ravindra Singh
14.	Major Singh	"	71. Ram Bali
15.	B. N. Tewari	"	72. Lambodar
16.	Birendra Kumar	"	73. Anil Kumar
17.	Seonath Singh	"	74. Satinder Kumar
18.	Surendra Singh	"	
19.	Arjun Prasad	"	MECHANIC
20.	Ram Singh	"	75. Md. Shamshir
21.	Ramji Singh	"	76. Md. Amzad Khan
22.	Nirmal Singh	"	77. Md. Shamim
23.	Darshan Singh	"	78. Fateh Mohammad
24.	Trilok Singh	"	79. Vijay Kumar
25.	B. K. Roy	"	80. Ramchandra
26.	Mohindra Singh	"	81. Lakhan Bwani
27.	Bikram Singh	"	82. Rameshwar Ram
28.	Balwant Singh	"	83. Buttan Gope
29.	K. K. Singh	"	84. Binod Ghosal
30.	Ramchandra	"	85. Ram Nivas Yadav
31.	R. P. Singh	"	86. Biresh Kumar Rewani
32.	Ram Jatan	"	87. Ram Chandra Bid
33.	Kuldeep Singh	"	88. Krishan Mondal
34.	Dilip Kumar	"	89. Din Bahadur Thapa
35.	Gyaneshwar Tewari	"	
36.	Satyanam Singh	"	
37.	Nashiv Singh	"	
38.	Harbhajan Singh	Supervisor	
39.	Trilok Singh	"	
40.	H. S. Thapa	"	
41.	Sukhdev Singh M.	"	
42.	Dhanraj Pandey	"	
OFFICE STAFF			
43.	Baljeet Singh	Asstt. Supdt.	
44.	Ujjal Kumar Bose	Office Clerk	
45.	Umesh Choudhary	"	
46.	Brij Kishor Singh	"	
GENERAL LABOUR			
47.	Awdesh Singh	Helper	
48.	Jogendra Singh	"	
49.	Sukhdev Singh	"	
50.	Nand Kishore	"	
51.	Damodar Prasad	"	
52.	Rama Shankar Yadav	"	
53.	Shyam Sundar Shah	"	
54.	Surendra Singh	"	
55.	Madan Mohan Mishra	"	
56.	Surendra Mishra	"	
57.	Mahadev Sharma	"	

2. The case of the management of Sudamdih Area of M/s. B.C.C. Ltd., as disclosed in the written statement, details apart, it as follows :

The present reference is bad in law and not maintainable because of the fact that the persons concerned were never employed by the management and consequently there was no relationship of employer and employee between the management on the one hand and the concerned workmen on the other. Besides no demand was made on the management before raising the present dispute. Hence, there is no industrial dispute in the eye of law. Anyway, during the conciliation proceeding it was the case of the union that the persons concerned were purportedly employed by M/s. Fouji Koyla Carriers Pvt. Ltd; (hereinafter referred to as M/s. Fouji Carriers to the sake of brevity), ex-contractor of Sudamdih Area of M/s. B.C.C.L. and that the said ex-contractor had closed his establishment. There can be no industrial dispute in respect of a closed industrial establishment. The substantive case of the management is that M/s. Fouji Carrier was engaged as transport contractor by the management for transporting coal to Sudamdih Coal Washery from coal mines for the purpose of washing of coal for its ultimate despatch to the steel plants. The said contractor apparently engaged some persons for executing the job entrusted to it. The contract awarded by the management expired on 5-9-83 and therefore the contract came to an end. As a result the contractor closed its establishment. It is a clear case of closure of an establishment set up by the Contractor for the purpose and the case would fall within the scope of Sec. 25-FFF of the Industrial Disputes Act. Upon closure of the establishment the services of the persons engaged by the Contractor also stood terminated. The said Section does not expressly provide for payment of retrenchment compensation in cases such as this. The provision of this section is a deeming provision which has to be distinguished from the express provision laid down in Sec. 25F of the Industrial Disputes Act. During the conciliation proceeding

held before the Asstt. Labour Commissioner (C), Dhanbad, the sponsoring union raised the dispute against M/s. Fauji Koyla Carriers Pvt. Ltd. and later the management of Sudamdih Area of M/s. B.C.C. Ltd. was impleaded as a party. The management strongly objected against such impleading contending that there was no employer-employee relationship between the management of Sudamdih Area and the concerned persons and so the management had got no liability whatsoever in the matter. Since the management has got no liability in the matter it is not liable to pay any retrenchment compensation. In the context of facts and circumstances, the management has prayed that its action in denying payment of retrenchment compensation to the concerned persons is fully justified.

3. The case of the sponsoring union, Janta Mazdoor Sangh representing the concerned workmen, as disclosed in the written statement, is as follows :

By an agreement dated 14-6-80 entered into between M/s. B.C.C. Ltd. and M/s. Fauji Koyla Carriers (P) Ltd, it was agreed that M/s. Fauji Koyla Carriers (P) Ltd. would transport coal from various collieries of M/s. B.C.C. Ltd. to Sudamdih Coal Washery. M/s. B.C.C. Ltd. agreed to supply Vehicles for transporting coal on hire purchase basis and the terms and conditions relating to the hire purchase were incorporated in the agreement. The concerned persons were employed through the agency of M/s. Fauji Carriers for performance of all kinds of job required for transporting coal through vehicles for M/s. B.C.C. Ltd. By letter dated 3-9-83 the Director (P) of M/s. B.C.C. Ltd. terminated the agreement dated 14-6-80 and subsequently the Chairman of Fauji Koyla Carrier (P) Ltd. informed all the concerned workmen as under:

"We regret to inform you that all the employees should make arrangements for their future service in their own interest. This company ceased to function with effect from 5-9-83. No payment of any kind was made to the affected workmen either by M/s. B.C.C. Ltd. the principal employer or by the Fauji Koyla Carrier (P) Ltd."

The union has asserted that abrupt termination of services of the concerned workmen amounts to illegal retrenchment as conditions precedent to retrenchment as laid down in Sec. 25F of the Industrial Disputes Act, 1947 have not been complied with. The employers acted in gross violation of Sec. 25F and 25N of the Industrial Disputes Act, and so the concerned workmen should be considered to be lawfully in service and are entitled to full back wages and all legal benefits with continuity of service from 5-9-83. The Branch Secretary of Janta Mazdoor Sangh of Sudamdih Branch and senior office bearers of Janta Mazdoor Sangh made efforts for payment of legal dues of the concerned workmen and reinstatement in service, but no mutual settlement could be arrived at. In the circumstances the union has prayed that an award be passed in favour of the concerned workmen holding that the action of the employers is in gross violation of Sec. 25F and 25-N of the Industrial Disputes Act, 1947 and as a consequence the concerned workmen should be considered to be legally in service and are entitled to get full back wages and other legal benefits with retrospective effect from 5-9-83.

4. In rejoinder to the written statement of the sponsoring union, the management has reiterated the fact that there was no relationship of employer and employee between the management of Sudamdih Area and the concerned persons and so the question of paying retrenchment compensation to the concerned persons does not arise at all.

5. In rejoinder to the written statement of the management, the union has asserted that there existed employer-employee relationship between the management of M/s. B.C.C. Ltd. and the concerned persons and so the management of M/s. B.C.C. Ltd. is not only liable to pay retrenchment compensation but also to reinstate the concerned workmen in service with full back wages. The dispute was raised before the Asstt. Labour Commissioner (C), Dhanbad and M/s. B.C.C. Ltd. was made a party and so the demand was made on the management. In the dispute raised before the A.L.C.(C), Dhanbad, it was submitted by the concerned workmen that

they were employed by the management of M/s. BCCCL through the agency of M/s. Fauji Carrier. The actual position is that M/s. Fauji Carrier (P) Ltd. was given a contract for five years on the terms and conditions laid down in the agreement between M/s. B.C.C. Ltd. and M/s. Fauji Koyla Carrier (P) Ltd. The contractor acted in breach of the terms of contract and was making gross mistake of M/s. B.C.C. Ltd.'s money on colossal scale. This was detected and M/s. B.C.C. Ltd. terminated the contract before completion of five years. The period of contract was from 14-6-80 to 13-6-85, but because of the fact narrated above, the contract was terminated with effect from 5-9-83. The union has asserted that this is not a case of closure and so there is no scope of application of Sec. 25FFF of the Industrial Disputes Act. The union has asserted that termination of service of the concerned workmen is illegal and in gross violation of Sec. 25-F and 25-N of the Industrial Disputes Act and so they should be deemed to be in service and they are entitled to get full wages and consequential benefit with effect from 5-9-83 including reinstatement in service.

6. The management of Sudamdih Area of M/s. B.C.C. Ltd. in order to justify its action, has examined only one witness, namely, Indrajit Ghose as M.W.1, now posted as Superintendent (Mines) of Sudamdih Washery and laid in evidence a number of documents which have been marked Exts. M-1 to M-4.

The Management of M/s. Fauji Carriers, although impleaded as a party at the instance of the sponsoring union has not appeared nor has it contested the claim of the concerned workmen.

The sponsoring union has examined only one witness namely W.W.1 Baljeet Singh and laid in evidence a number of documents which have been marked Exts. W-1 to W-5/13.

7. The case of the management of Sudamdih Area of M/s. B.C.C. Ltd. is that M/s. Fauji Carriers was engaged as transport contractor by the management for transporting coal to Sudamdih Coal Washery from the coal mines for the purpose of washing coal for ultimate despatch to steel plant and that the said contractor apparently engaged some persons for executing the job entrusted to it. The case of the sponsoring union is that by an agreement dated 14-6-80 entered into between M/s. B.C.C. Ltd. and M/s. Fauji Carrier it was agreed that M/s. Fauji Carrier will transport coal from various collieries of M/s. B.C.C. Ltd. to Sudamdih Coal Washery and M/s. B.C.C. Ltd. agreed to supply Vehicle for transportation of coal on hire purchase basis which was incorporated in the agreement and the concerned workmen were employed through the agency of M/s. Fauji Carrier for performance of all kinds of jobs required for transportation of coal through vehicles for M/s. B.C.C. Ltd.

8. It appears that by agreement dated 14-6-80 the management of M/s. B.C.C. Ltd. engaged M/s. Fauji Koyla Carrier Pvt Ltd. as transport contractor for transportation of coal from different Collieries of M/s. B.C.C. Ltd. to Sudamdih Coal Washery on certain terms and conditions for a term of five years. Simultaneously with this agreement M/s. B.C.C. Ltd. also entered into a hire purchase agreement with the said transport contractor for supply of 20 tippler trucks to the transport contractor on hire basis for transportation for coal (Exts. M-1 and M-2). In terms of the contract the contractor was to employ competent, skillful and disciplined men for transport of coal.

9. The concerned workmen were, admittedly, employed by the said contractor, but the case of the sponsoring union is that they were appointed by M/s. B.C.C. Ltd. through the agency of the contractor. In the present reference I have called upon to confine my adjudication to the issue as to whether the action of the management of Sudamdih Area of M/s. B.C.C. Ltd. in denying payment of retrenchment compensation to the contractor's workmen named in the annexure is justified or not. This being the position, it is assumed in the order reference that the concerned workmen are the workmen of the contractor.

Shri B. N. Sharma, authorised representative of the sponsoring union, has contended that the concerned workmen are really the workmen of M/s. B.C.C. Ltd. and that M/s.

Fauji Koyla Carrier Pvt. Ltd. is camouflaged and the Organisation was set up by the management of M/s. BCCL no obfuscate the real status of the concerned workmen. This being so, the sponsoring union went me to extend the scope of adjudication by extending the issue as to whether the concerned workmen are the workmen of M/s. B.C.C. Ltd. or not. It is well settled proposition that the Tribunal cannot travel beyond the scope of the reference made by the appropriate Government and extend the scope of adjudication. This being the position I am constrained to state that there is no scope in the present reference to adjudicate upon the issue as to whether the concerned workmen are the workmen of M/s. B.C.C. Ltd. since no such issue has been raised in the terms of reference. Furthermore, the issue is circumscribed by the terms of reference in this way that whether the action of the management of M/s. B.C.C. Ltd. is justified in denying the retrenchment compensation to the contractors workmen as per Annexure in the circumstances, this Tribunal has got no jurisdiction to decide the question as to whether the concerned workmen are really the workmen of M/s. B.C.C. Ltd. and not the workmen of the contractor. The sponsoring union may raise appropriate industrial dispute before the appropriate authority canvassing the fact that the concerned workman are really the workmen of M/s. B.C.C. Ltd.

20. Admittedly, by notice dated 3-9-83 the management of M/s. B.C.C. Ltd. terminated both the agreements for transportation of coal and hire purchase agreement (Exts. W-2 and W-3). Thereafter the Chairman of M/s. Fauji Koyla Carrier Pvt. Ltd. terminated the services of the concerned workmen with effect from 5-9-83 and the company also ceased to function with effect from that date (Ext. W-4). The Contractor M/s. Fauji Koyla Carrier Pvt. Ltd., admittedly, did not pay retrenchment compensation to the concerned workmen before terminating their services. In terms of the agreement with the B.C.C.Ltd. the contractor was liable to pay all the legal dues to its workmen. The relevant portions of terms of agreement are gleaned hereinbelow :

"Clause 39(g)—The transport contractors shall pay its employees engaged by it under the contract, such as, wages, dearness allowances and other allowances at the rates not lower than those laid down in the Minimum Wages Act. In the event of any escalation of rate of wages in future, the transport contractors shall make payment to the employees engaged by them at the revised rates from the date on which the said rate shall come into force and it shall not be binding on the company to reimburse any amount arising out of such payment to the transport contractors. The transport contractor shall also pay the employees the profit sharing, if any, as may be admissible under the relevant law.

Clause 39(h)—The transport contractors shall, in addition to the above, make all payments provided in the relevant laws as specifically in the labour laws including leave pay, railway fare, maternity benefit, compensation under Workmen's Compensation Act, lay off compensation under Industrial Disputes (Amendment) Act and sick leave wages, wages for paid holidays as per the rules, agreement, awards or relevant laws."

Thus, it is evidenced from the agreement itself that the contractor was liable to make payments to its workmen as provided in the relevant laws specifically in the labour laws. The provision for payment of compensation is provided in the Industrial Disputes Act and hence even as per the agreement the contractor cannot be avoided of payment of retrenchment compensation to its workmen. Section 25FFF of the Industrial Disputes Act provides for payment of compensation to workmen in case of closing down of undertaking. Admittedly, M/s. Fauji Koyla Carrier Pvt. Ltd. has closed its undertaking and so the provision of Section 25FFF cannot be avoided by the Contractor.

11. Shri R. S. Murthy, learned Advocate, although appearing for M/s. B.C.C.L., has contended that any dispute relating to a closed undertaking fall outside the purview of the Industrial Disputes Act. No doubt, this dispute relates to a

closed undertaking and dispute relating to the past closure period cannot be referred to for adjudication, but dispute relating to pre-closure or dispute arising simultaneously with the closure can be referred. In the present case the dispute with regard to payment of retrenchment compensation arose simultaneously with the closure and so the present dispute is perfectly maintainable.

12. Primary liability for paying retrenchment compensation rests with the contractor, and M/s. B.C.C. Ltd. is not liable to pay such compensation to the concerned workmen. Although the contractor has been made a party, it did not appear nor has it contested the claim of the concerned workmen. Hence, I am constrained to hold that the management of M/s. B.C.C.Ltd. is justified in denying retrenchment compensation to the concerned workmen, but M/s. Fauji Koyla Carrier Pvt. Ltd., the contractor, is not justified in doing so.

13. Accordingly, the following award is rendered—the action of the management of Sudamdih Area of M/s. B.C.C.Ltd. in denying payment of retrenchment compensation to the contractor's workmen is justified. But the management of M/s. Fauji Koyla Carrier Pvt. Ltd., Contractor, in denying retrenchment compensation to the concerned workmen is not justified. The contractor is directed to pay the retrenchment compensation to the concerned workmen within three months from the date of publication of the award.

In the circumstances of the case, I award no cost.

S. K. MITRA, Presiding Officer
[No. L-20012/145/84-D.III(A)/IR(Coal)]

का. आ. 2311.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मेसर्स भारत कोकिंग कोल लि. की धनबाद कोलियरी के प्रबन्धतन्त्र से सम्बद्ध नियोजकों और उनके कर्म-कारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 2) धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-8-1990 को प्राप्त हुआ था।

S.O. 2311.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Dhamaband Colliery of M/s. Bharat Coking Coal Ltd., and their workmen, which was received by the Central Government on the 6-8-90.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT

DHANBAD

Reference No. 172 of 1986

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act., 1947.

PARTIES :

Employers in relation to the management of Dhamaband Colliery of Messrs. Bharat Coking Coal Limited and their workmen.

APPEARANCES :

On behalf of the workmen.—Shri S. Bose, Secretary, R.C.M.S. Union.

On behalf of the employers.—Shri B. Joshi, Advocate
STATE : Bihar. INDUSTRY : Coal.

Dated, Dhanbad, the 30th July, 1990

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (385)/85-D.III(A), dated, the 28th April. 1986.

SCHEDULE

"Whether the action of the management of Dharmaband Colliery of M/s. Bharat Coking Coal Limited in putting Shri Kashi Nath Singh, Night Guard on Badli List and not allowing him to resume duty on 29-4-1985 is justified? If not, to what relief the workman is entitled?"

In this case both the parties appeared and filed their respective W. S. etc. Thereafter the case proceeded along its course. Subsequently when the case was fixed for evidence of parties, both the parties appeared and filed a petition of compromise. I heard both the parties on the said petition of compromise and I do find that the terms contained therein are fair, proper and beneficial to both the parties. Accordingly I accept the same and pass an Award in terms of the petition of compromise which forms part of the Award as Annexure.

I. N. SINHA, Presiding Officer

[No. L-20012/385/85-D.III(A)/IR (Coal-I)]

ANNEXURE-A

BEFORE THE PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL NO. II, AT DHANBAD

Reference No. 172/86

Employers in relation to the Management of Dharmaband Colliery of M/s. Bharat Coking Coal Limited, P. O. Sonardih, Dist. Dhanbad.

AND

Their Workmen

Petition of Compromise

The humble petition on behalf of the parties to the above reference most respectfully sweth :

1. That, The Central Government Notification No. L-20012(385)/85-D-III(1), dated 28th April 1986 has been pleased to refer the present dispute to the Hon'ble Tribunal for adjudication on the issue contained in the Schedule of reference which is re-produced below :

SCHEDULE

"Whether the action of the Management of Dharmaband Colliery of M/s. Bharat Coking Coal Limited in putting Shri Kashinath Singh, Night Guard on Badli list and not allowing him to resume duty on 29-4-85 is justified? If not, to what relief is the workman entitled?"

2. That, the dispute has been amicably settled between the parties on the following terms and conditions :

TERMS OF SETTLEMENT

- That, the concerned workman Sri Kashi Nath Singh will be allowed to resume his duty as Night Guard provided he will be declared by the medical board fit to resume his duty.
- That, the concerned workman will appear before the Medical Board on the date and time and place to be intimated to him within 15 days from the date of this settlement.
- That, in case the Medical Board will declare him medically fit to resume his duty, he shall be allowed

to resume his duty within 30 days from the date of his medical examination. The concerned workman will not claim any wages or benefit for the period of his idleness and the entire period will be treated as leave without wages and his continuity of service will be maintained to give him benefit of payment of gratuity.

- That, in case the medical board will declare him medically unfit to work as Night Guard, the concerned workman will not claim for his job in future.
- That, the results of examination by the Medical Board will be final and binding on both parties and no party will have right to challenge the correctness of the findings of the Medical Board.
- That, the workman concerned will file Affidavit, BDO/Mukhiya or MP/MLA certificate in support of his genuinity at the time of reporting for his duty.

3. That, in view of the aforesaid settlement there remains nothing to be adjudicated.

Under the facts and circumstances stated above the Hon'ble Tribunal will be graciously pleased to accept the settlement as fair and proper and be pleased to pass the Award in terms of settlement.

For the Workmen.

(Sd./-)

(G. D. Pandey),
Vice President, RCMS.

For the Employers.

(Sd./-)

(S.N.P. RAI),
General Manager.

(Sd./-)

S. P. SINGH, Personnel Manager.

का. धा. 2312—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मं० भारत कोकिंग कोल लि. की धनबाद कोलियरी के प्रबन्धन से सम्बन्धित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 2) धनबाद के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 6-8-1990 को प्राप्त हुआ था।

S.O. 2312.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employeys in relation to the management of Dharmaband Colliery of M/s. Bharat Coking Coal Ltd., and their workmen, which was received by the Central Government on 6-8-1990.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 43 of 1985

In the matter of an Industrial dispute under Section 10(1)(d) of the I. D. Act, 1947.

PARTIES :

Employers in relation to the management of Dharmaband Colliery of Messrs. Bharat Coking Coal Ltd., and their workmen.

APPEARANCES :

On behalf of the workmen.—Shri S. Bose, Secretary,
R.C.M.S. Union.

On behalf of the employers.—Shri B. Joshi, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 30th July, 1990

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (3)/85-D.III(A), dated, the 23rd April, 1985.

SCHEDULE

"Whether the demand of Rashtriya Colliery Mazdoor Sangh that Shri Ramdeo Mistry, Mechanical Fitter of Dharmaband Colliery of Messrs. Bharat Coking Coal Limited should be given Category-IV from 1973 with further promotions to the next higher grades of Category-V and Category-VI in 1976 and 1982, respectively, is justified? If so, to what relief in this workman entitled?"

In this case both the parties appeared and filed their respective W. S. documents etc. Thereafter when the case was fixed for evidence of parties both the parties appeared before me and filed a petition of compromise. I heard them on the said petition of compromise and I do find that the terms contained therein are fair proper and beneficial to both the parties. Accordingly I accept the same and pass an Award in terms of the petition of compromise which forms part of the Award as Annexure.

I. N. SINHA, Presiding Officer,
[No. 20012/3/85-D.III(A)/IRCC-I]

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL NO. II AT DHANBAD

Ref. No. 43/85

Employers in relation to the Management of Dharmaband Colliery of M/s. Bharat Coking Coal Ltd., P. O. Sonardih, Dist. Dhanbad.

AND

Their Workmen

PETITION OF COMPROMISE

The humble petition on behalf of the parties to the above reference most respectfully sheweth :

1. That, the Central Govt. Notification No. L-20012(3)/85-D-III(A) dated 23-4-85 has been pleased to refer the present dispute to the Hon'ble Tribunal for adjudication on the issue contained in the schedule of reference which is reproduced below :—

SCHEDULE

"Whether the demand of the Rastriya Colliery Mazdoor Sangh that Sri Ramdeo Mistry, Mech. Fitter of Dharmaband Colliery of M/s. Bharat Coking Coal Limited should be in Cat. IV from 1973, with further promotion to the next higher grade of Cat. V and Cat. VI in 1976 and 1982 respectively, is justified? If so, to what relief is the workman entitled?"

2. That, the dispute has been amicably settled between the parties on the following terms and conditions :

TERMS OF SETTLEMENT

(a) That, the concerned workman Sri Ramdeo Mistry shall be placed in Cat. IV with effect from 26-2-75 i.e. the date from which he was authorised to work as Mech. Fitter and has been working as Fitter with basic pay of Rs. 12.75, the minimum of Cat. IV wages.

(b) That, thereafter he is to be notionally fixed at different points of time with due increment as per National Coal Wage Agreement and payment arising out of the same will be made to him within 60 days.

(c) That, in view of the aforesaid settlement there remains nothing to be adjudicated.

Under the facts and circumstances stated above the Hon'ble Tribunal will be graciously pleased to accept the settlement as fair and proper and be pleased to pass the Award in terms of settlement.

For the Employers

(Sd./-)
(S.N.P. RAI),
General Manager,
Govindpur Area.

(Sd./-)
(S.P. SINGH),
Personnel Manager,
Govindpur Area.

For the Workmen

(Sd./-)
(G. D. PANDY),
Vice President,
R.C.M.S..

Witnesses :—

1. (Sd./-) Illegible
- 2.

का. आ. 2313—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ने, भारत कोकिंग कोल लि. का. सिजुआ क्षेत्र सं 5 के प्रबन्धन में संबंधित नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 2) धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-8-1990 को प्राप्त हुआ था।

S.O. 2313.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Sijua Area V of M/s. Bharat Coking Coal Ltd., and their workmen, which was received by the Central Government on the 6-8-1990.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL (NO. 2), AT DHANBAD

Reference No. 154 of 1986

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947.

PARTIES :

Employers in relation to the management of Sijua Area V of Messrs. Bharat Coking Coal Limited and their workmen.

APPEARANCES :

On behalf of the workmen.—Shri S. Bose, Secretary,
R.C.M.S. Dhanbad.

On behalf of the employers—Shri G. Prasad, Advocate.
STATE : Bihar. INDUSTRY : Coal.

Dated, Dhanbad, the 30th July, 1990

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (343)/85-D.III(A) dated, the 21st March, 1986.

SCHEDULE

“Whether the demand of Rashtriya Colliery Mazdoor Sangh that the management of Sijua Area-V of M/s. Bharat Coking Coal Limited should place their workman, Smt. Manjusha Sinha, in Clerical Grade-II from 1982 is justified? If so, to what relief is she entitled?”

In this case only the management filed his W.S. Subsequently both the parties appeared before me and filed a petition of compromise. I heard both the parties on the said petition of compromise and I do find that the terms contained therein are fair, proper and beneficial to both the parties. Accordingly I accept the same and pass an Award in terms of the petition of compromise which forms part of the Award as Annexure.

I. N. SINHA, Presiding Officer.

[No. L-20012/343/85-D.III(A)/IR (Coal-I)]

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2,
DHANBAD

Ref. No. 154/86

PARTIES :

Employers in relation to the management of Sijua Area
of M/s. Bharat Coking Coal Ltd.

AND

Their workmen.

The humble petition of compromise on behalf of the parties, most respectfully sheweth :—

1. That, the Central Government by a Notification has referred the instant industrial dispute for an adjudication u/s 10(1)(d)(2A) of the Industrial Disputes Act, 1947 to this Hon'ble Tribunal. The Schedule of the reference is reproduced below :—

SCHEDULE

“Whether the demand of the Rashtriya Colliery Mazdoor Sangh that the management of Sijua Area of M/s. Bharat Coking Coal Limited should place their workman Smt. Manjusha Sinha in clerical Grade-II from 1982 is justified? If so to what relief is she entitled?”

2. That, the parties discussed the dispute outside the court and have settled the said dispute on the following terms and conditions.

TERMS AND CONDITIONS

1. That, it was agreed that Smt. Manjusha Sinha will be placed in Clerical Grade-II as Typist with effect from 1-3-1984, with consequential benefit, if any.

2. That this settlement resolves all the disputes between the parties and the workman concerned Smt. Manjusha Sinha shall have no claim whatsoever.

(3) That it was also agreed that seven copies of the settlement should be filed before the Hon'ble Tribunal and the Hon'ble Tribunal may be requested to give an award in terms of the settlement.

It is, therefore, prayed that your honour may be graciously pleased to accept the settlement and pass an award in terms of the settlement.

And for this act of kindness the parties shall ever pray.
Representing workmen.

(1) Sd/- Illigible

(2) Manqusha Sinha

Representing Employer

(1) General Manager,
B.C.C. Ltd.,
Sijua Area

(2)

workmen.

Workmen.

Witness :

(1)

(2)

Advocate

का. घा. 2314 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केन्द्रा बैंक के प्रवन्धन के सम्बन्ध नियोजकों और उनके कर्मचारों के बीच अनुषूचि में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अज्ञि-करण सं० 1 धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 2314—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the Canara Bank and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the
Industrial Disputes Act, 1947

Reference No. 19 of 1989

PARTIES:

Employers in relation to the management of Canara
Bank.

AND

Their Workmen.

APPEARANCES :

For the Employers : Shri R. R. Bhattacharjee, Advocate.
For the Workmen : Shri R. K. Pathak, General Secre-
tary, Bihar Pradesh Bank Workers' Organisation.
(Final hearing—None).

STATE : Bihar.

INDUSTRY : Banking.

Dated, the 27th June, 1990

AWARD

By Order No. L-12012/659/87-D.II(A), dated, the 15th
February, 1989, the Central Government in the Ministry of

Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Canara Bank in not acceding to the request for transfer made in 1982 by Shri M. N. Srivastava, Special Assistant, Buxar Branch to Arrah Branch particularly when vacancy arose there at 3-4 occasions from 1982 to 1986 is justified? If not, to what relief is the workmen entitled?"

2. The case of the management of Canara Bank (hereinafter referred to as the Bank) as appearing in the written statement-cum-rejoinder, is as follows :

M. N. Srivastava, Special Assistant of Buxar Branch requested for transfer to Arrah Branch. The Bank noted his request and assured him of consideration of his case at appropriate time. Normally transfers are effected considering the part posting, need for transfer and other attendant administrative exigencies. Though the Bank was sympathetic to the request of the concerned workman, the administration was unable to consider his request for transfer to Arrah Branch purely on administrative exigencies. Even during the conciliation proceeding the Bank assured him that his request for transfer would be considered at a later time. Under the circumstances there can be no scope for raising the present dispute. The selection or posting of employees in any particular branch/office is purely an administrative function. In spite of the constraints, the Bank, considering the fact that the request of the concerned workman for transfer to Arrah Branch was pending for a long time, had since acceded to his request and posted him to Arrah Branch. He has joined Arrah Branch on 13-6-1989.

2. The case of the concerned workman, as disclosed in the written statement submitted on behalf of the sponsoring union, briefly stated, is that M. N. Srivastava had been working at Buxar Branch as Special Assistant for last five years. He applied for his transfer to Arrah Branch on 10-8-82 on compassionate ground consequent upon death of his father in April 1982. The concerned workman made subsequent request for transfer on 26-12-86, but the management did not consider his request. The Bank management assured him that his case for transfer would be considered when posting of Special Assistant to that Branch would arise. The management did not consider his request even though the post of Special Assistant was vacant at Arrah. There existed two posts of Special Assistants at Arrah and one Shri S. N. Rai was holding one of such posts and other was lying vacant. The concerned workman requested the management for transfer on compassionate ground times without numbers, but the management did not consider his request. Ultimately the Union had to raise an industrial dispute before the A.L.C. (C), Patna. The A.L.C. (C), Patna, held conciliation over the matter but that ended in a failure. The appropriate Government had been pleased to make the present reference to this Tribunal. The post of one Special Assistant was lying vacant at Arrah since 1981. Consequent upon transfer of Sri S. N. Rai another vacancy arose in 1982. In 1983 the existing vacancy was filled up by transferring Sri S. C. Jha. In 1984 Shri Jha was transferred to Muzaffarpur and there arose vacancy in his place. There was vacancy of Special Assistant in 1986 at Arrah which was filled up by transferring Mr. Md. Hussain. Sri R. P. Mishra, Clerk at Arrah was transferred to Baraheria as Special Assistant and was brought back to Arrah after a short period. S. N. Rai was transferred from Arrah in 1982 and S. C. Jha was posted in 1983. He was transferred to Muzaffarpur in 1984 on his request. Md. Hussain was posted at Arrah in place of S. C. Jha. He was transferred from Arrah on his request within two years in 1986 Rajendra Prasad was posted in place of S. C. Jha in 1986 and he is still working there. Thus, it is apparent that the Bank Management deliberately did not transfer the concerned workman to Arrah Branch for some reason or other. The management did not consider the request for transfer of the concerned workman to Arrah at the behest of the recognised union. In the circumstances it has been submitted that the action of the management in not acceding to the request of the concerned workman for transfer to Arrah be held to be unjustified.

4. In rejoinder to the written of the union the Bank has denied the allegation made against it and stated that the request of the concerned workman for transfer to Arrah Branch was duly recorded and he was assured that action would be taken at the appropriate stage. The Bank has not disputed that there arose vacancies from time to time at Arrah Branch but for want of suitable person at Buxar the concerned workman could not be transferred to Arrah Branch though his request for transfer was pending for a long time.

5. The management has examined only one witness, namely, M.W. 1 P. K. Keshavan, now posted as Sr. Branch Manager of the Bank in Dhanbad Branch. It appears that the Bank has laid no documentary evidence.

6. Neither the concerned workman nor the authorised representative of the union was present at the time of hearing. Since the annexure to the written statement submitted by the sponsoring union on behalf of the concerned workman has not been assailed by the management in its written statement, all these annexures were considered for adjudication in this case. It is the admitted case that M. N. Srivastava, the concerned workman was posted as Special Assistant in Buxar Branch of the Bank. There is no dispute that he requested for his transfer to Arrah Branch of the Bank on 10-8-82 (Annexure-I) on the ground of financial stringency and his personal ailment. It appears that he made further request for his transfer by letter dated 26-12-86 (Annexure-II). The Bank by letter dated 8-1-86 informed him that the contents of his letter dated 20-12-85 were noted and that his request for transfer was also noted in the record of the Bank and his request for transfer would be considered at the time of posting of any Special Assistant at Arrah Branch (Annexure-III). The General Secretary of the sponsoring union by letter dated 15-1-87 pointed out to the Dy. General Manager of the Bank, Calcutta that the case of the concerned workman for transfer to Arrah had been ignored by the Bank management (Annexure-IV). The General Secretary of the sponsoring union raised the industrial dispute before A.L.C. (C), Patna by letter dated 19-3-87 (Annexure-V) and the A.L.C. (C) submitted failure report to the appropriate Government by letter dated 14-10-87 (Annexure-VI).

7. MW-1 P. K. Keshavan is now posted as Sr. Branch Manager of the Bank in Dhanbad Branch. He has admitted that the concerned workman was working as Special Assistant at Buxar Branch of the Bank in the same capacity. He has also stated that transfer of staff from one branch to another is done according to the administrative convenience of the management and that when the present industrial dispute was raised the case of the concerned workman for transfer from Buxar to Arrah branch was under the active consideration of the management. The statement of Sri Keshavan discloses that the application of the concerned workman for transfer to Arrah has since been considered and he actually has been transferred to Arrah Branch. It is the definite case of the Bank that the concerned workman joined the Arrah Branch of the Bank on 13-6-89. Although, the management of the Bank should have transferred him to Arrah Branch earlier, it did not do so which resulted in the present industrial dispute. Anyway, since the concerned workman has been transferred to Arrah Branch as Special Assistant and he has also joined his posting there, the present industrial dispute as to whether the action of the management of the Bank in not acceding to the request for transfer made by the concerned workman from Buxar to Arrah Branch is justified or not has become pointless.

8. Accordingly, the following award is rendered—the action of the management of the Bank in not acceding to the request for transfer made by the concerned workman from Buxar to Arrah Branch has become meaningless in the context of the fact that he had already joined his posting at Arrah Branch as Special Assistant on transfer from Buxar Branch to Arrah Branch in the same capacity.

Under the circumstances of the case, I award no cost.

S. K. MITRA, Presiding Officer

[No. L-12012/659/87-D.II(A)]

का. आ. 2315—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इलाहाबाद बैंक के प्रबन्धतंत्र के संबद्ध नियो-जकों और उनके कर्मकारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (स. 1) धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 2315.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the Allahabad Bank and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 106 of 1989

PARTIES:

Employers in relation to the management of Allahabad Bank.

AND

Their Workmen.

APPEARANCES:

For the Employers: None.

For the Workmen: Shri Arun Kumar, General Secretary, Bihar State Allahabad Bank Employees' Union.

STATE: Bihar.

INDUSTRY: Banking.

Dated, the 25th June, 1990

AWARD

By Order No. L-12012/81/89-D.II(A), dated, the 18th August, 1989, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the action of the management of Allahabad Bank in terminating the services of S/Shri Ram Kumar Baitha, Shyam Narayan Singh, Dashrath Prasad, Kamli Ram and Md. Usman, is justified? If not, to what relief are the concerned workmen entitled?"

2. Shri Arun Kumar, General Secretary of the sponsoring union files a petition praying for passing a 'no dispute award' in the present reference. The petition is signed both by Shri Arun Kumar as General Secretary of the sponsoring union and by Shri M. S. Raj Sharma, Asstt. General Manager of the Bank.

3. It appears that the present dispute has been raised by Bihar State Allahabad Bank Employees' Union on behalf of the concerned workmen S/Shri Ram Kumar Baitha, Shyam Narayan Singh, Dashrath Prasad, Kamli Ram and Md. Usman. The sponsoring union and the management of the Bank, by a petition submitted today, have informed that the dispute has been amicably resolved and that 'No dispute award' may be passed in this case.

4. Accordingly, I pass 'No Dispute Award' in the present case.

This is my Award.

S. K. MITRA, Presiding Officer

[No. L-12012/81-89-D.II(A)]

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का. आ. 2316—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब व सिंध बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, गोहाटी के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को —————प्राप्त हुआ था।

New Delhi, the 13th August, 1990

S.O. 2316.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Guwahati as shown in the Annexure in the Industrial dispute between the employers in relation to the Punjab & Sind Bank and their workmen, which was received by the Central Government.

IN THE INDUSTRIAL TRIBUNAL, GUWAHATI,

ASSAM

Reference No. 2(c) of 1988

PRESENT:

Shri D. N. Hazarika, Presiding Officer, Industrial Tribunal, Gawahati, Assam.

In the matter of an Industrial Dispute

BETWEEN

The management of Punjab and Sind Bank, Ltd, Uzanbazar, Guwahati.

AND

Their workman Miss Gauri Deb.

AWARD

This Reference arising out of the Central Government Notification No. L-12012/415/87-D.II(A) dated, 10th February, 1988 relates to the dispute indicated in the Schedule below:

"Whether the termination of services of Miss Gauri Deb, Typist by the management of Punjab & Sind Bank is justified? If not, to what relief the workman concerned is entitled?"

On receipt of the reference notices were issued to the parties to file their written statements in support of their respective cases. Both the parties received notices in time and filed their written statements. In course of hearing management examined one witness. Workman also examined one witness.

Learned Counsel for the management argued that Gauri Deb was never an employee of Unbhai and Sind Bank Dibrugarh Branch. According to him, management has not issued any formal appointment letter, without which, it cannot be presumed that Gauri Deb was an employee of the Bank. He further contended that in absence of regular typist in Dibrugarh Branch of the bank, Gauri Deb was asked to do typing of letters at the rate of one rupee per letter. For convenience Gauri Deb was paid Rs. 40 per week. Counsel further argued that as Gauri Deb is not an employee of the bank, no industrial dispute exist and she is not entitled to any benefit.

Counsel for the workman argued that though no formal appointment letter was issued by the bank, Gauri Deb was asked by the manager, Dibrugarh Branch to do the work of typing in absence of regular typist in the bank. She was paid Rs. 40 per week and later on this has been increased to Rs. 50 per week as the work load has increased considerably. According to him, Gauri Deb worked as typist regularly and continuously in the bank for more than 240 days and as such, she is entitled to retrenchment benefit as envisaged under section 25(F) of the Industrial Dispute Act.

Main question in this reference is whether Gauri Dev was an employee of Punjab and Sind Bank Dibrugarh Branch. It is an admitted fact that no formal appointment letter was issued by the bank. Gauri Dev admitted in her evidence that she was asked by the then manager Dibrugarh Branch of the bank to do typing work at the rate of Rs. 40 per week. It is also an admitted fact Gauri Deb worked as typist in the said bank for a period of 1 year 9 months continuously. Vouchers Ex. 1 to 13 shows Gauri Deb worked in the bank from December, 1983 to September, 1985. Further it appears, wages of Gauri Deb has been increased from Rs. 40 to Rs. 50 per week as the work load has been increased during this period. Contention of learned counsel for management that Gauri Deb was allowed to do typing work at the rate of Re. 1 per letter is belied by the vouchers Exhibit 1 to 13. These exhibits proves that Gauri Dev was paid a consolidate sum of Rs. 40 per week which was later on increased to Rs. 50 per week vide Exhibit "Ka" letter dated 11th June, 1985 written by Senior Manager to the Management Dibrugarh Branch. Further in this letter senior manager admitted that Gauri Dev was part time typist of the bank. Exhibit 1 to 13 and Exhibit "Ka" establishes that Gauri Deb was doing typing work in the bank as workman on weekly payment.

Therefore I find Gauri Dev was workman of Punjab and Sind Bank Dibrugarh Branch for the relevant period. Contention of learned counsel that Gauri Dev was not an employee of the bank does not hold good. Further his contention that as Gauri Dev is not an employee or workman of the bank, no industrial dispute exist does not hold good. An industrial dispute exist because, Gauri Dev was removed from her service without following the procedures laid down in the Act for such removal or dismissal. As discussed above I find Gauri Dev served as typist on weekly payment basis regularly and continuously for more than 240 days in a period of 12 months. Removal of workman Gauri Dev from service without following the conditions laid down in S-25(F) Industrial Act is not justified. I find Gauri Dev who worked for more than 240 days in a period of 12 months is entitled to the benefit of retrenchment under section 25(F) of the Industrial Disputes Act. There is no evidence on record to show that present reference attract provision of S-25(N) of the Industrial Dispute Act. Therefore it is awarded, Gauri Deb be given all benefits of retrenchment enjoined in S-25(F) of the Industrial Dispute Act.

I give this Award on this 13th day of July, 1990 at Guwahati under my hand and seal.

D. N. HAZARIKA, Presiding Officer
[No. L-12012/415/87-DII(A)]
Assam.

का० आ. 2317.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ इंडिया के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 2317.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial dispute between the employers in relation to the Bank of India and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

I.D. No. 82/87

In the matter of dispute

BETWEEN

Shri O. P. Dawar,
Through The General Secretary,
Bank of India Staff Union,
C/o Bank of India, Connaught Place Branch,
12-B Connaught Place, New Delhi.

Versus

The Zonal Manager, Bank of India,
Zonal Office, Northern Zone,
Herald House, B. S. Zafar Marg,
New Delhi.

APPEARANCES.

Shri N. C. Chaturvedi—for the workman
Shri Ajay Bhatnagar—for the Management.

AWARD

The Central Government in the Ministry of Labour vide its order No. L-12012/153/87-D.II(A) dated 31st August, 1987 has referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of Bank of India in awarding punishment by way of stopping one increment with cumulative effect of Shri O. P. Dawar is justified? If not to what relief the workman is entitled?"

2. Shri N. C. Chaturvedi representative for the workman in this case has put in a written application that Shri O. P. Dawar workman has since resigned from the employment of the bank and was not interested in proceeding further with the case. He further prayed that the case may be allowed to be withdrawn and the proceedings dropped. In view of the application of the representative for the workman the reference is disposed of accordingly for want of prosecution. 10th July, 1990.

GANPATI SHARMA, Presiding Officer
[No. L-12012/153/87-D.II(A)]

का. आ. 2318.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ इंडिया के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 2318.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the Industrial dispute between the employers in relation to the Bank of India and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(41)/1988

PARTIES:

Employers in relation to the management of Bank of India, Zonal Office, M.P. Zone, Sahkar Bhawan, North T. T. Nagar, Bhopal (M.P.)-462003,

AND

their workman, Shri Purushotam Lal Soni S/o Shri Dhannaji Soni, Village Memenbarodia, Tehsil & District Shajapur (M.P.).

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

APPEARANCES:

For Workman—Workman concerned himself.

For Management—Shri P. K. Kardam, Law Officer.

INDUSTRY : Banking. DISTRICT : Shajapur (M.P.)

AWARD

Dated : June 29, 1990

This is a reference made by the Central Government in the Ministry of Labour vide Notification No. L-12012/366/87-D.II(A) dated 20th April, 1988, for adjudication of the following dispute :—

“Whether the action of the management of Bank of India in terminating the services of Shri Purushotam Lal Soni is justified? If not, to what relief is the workman entitled?”

2. In this case parties filed their pleadings, documents and the workman concerned examined himself as W.W. 1. The case was at the stage of recording of evidence on behalf of the management. But in the meanwhile good sense prevailed in parties and they have filed a compromise petition on 28th June, 1990 before this Court and verified the same. The terms of settlement are as under :—

(a) That, in full and final settlement of Shri P. L. Soni's claim pending before the Hon'ble Court, the said Shri P. L. Soni will be employed as part-time Sepoy-cum-Hammal on 3/4th Scale wage at Bank's Agar Malwa Branch under Ujjain Region within 30 days from the receipt of consent Award of CGIT subject to his being medically found fit.

(b) That while employing Shri P. L. Soni, the bank will issue an appointment letter specifying therein the terms and conditions of employment and the service conditions of Shri Soni shall be governed by said appointment letter and also by the various Awards & Settlement governing service condition of the bank's Award Staff.

(c) That the said Shri P. L. Soni will not get any back wages or any other benefit whatsoever as the present settlement is full and final settlement of his claim pending before the Hon'ble Court.

3. I have gone through the above terms of settlement which appear to be just, fair and in the interest of the workman concerned. I, therefore, give my award in terms of the settlement arrived at between the parties without any order as to costs.

V. N. SHUKLA, Presiding Officer
[No. L-12012/366/87-D.II(A)]

का. आ. 2319—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केन्द्र बैंक के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (स) घनवाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 2319. In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the Canara Bank and their workmen, which was received by the Central Government.

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 70 of 1988

PARTIES:

Employers in relation to the management of Canara Bank.

AND

Their Workmen.

APPEARANCES:

For the Employers : Shri R. R. Bhattacharjee, Advocate.

For the Workmen : Shri D. K. Verma, Advocate.

STATE : Bihar.

INDUSTRY : Banking.

Dated, the 28th June, 1990

AWARD

By Order No. L-12012/26/88-D.II(A), dated, the 17th June, 1988, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Canara Bank in terminating the services of Shri Mahesh Chandra Yadav, Daily Wager, Monghyr Branch w.c.f. 4-11-86 is justified? If not, to what relief is the concerned workman entitled?”

2. The case of the management of Canara Bank as disclosed in the written statement submitted, details apart, is as follows :

The candidature of Mahesh Chandra Yadav, the concerned workman was sponsored by District Employment Exchange and his name was included in the Panel of Daily Wager of Canara Bank (hereinafter referred as Bank) with effect from 23-7-85. He was engaged as a Daily Wager in Monghyr, Rajlaoriya and Kattri branches on the leave vacancies of permanent peons. At the time of empanelment, he had furnished his date of birth as 1-1-66. However, at a later date it came to light that his date of birth was 1-1-64. Hence his explanation was called for by the Bank by letter dated 20-8-86. In his letter he had admitted that the date of birth furnished by him at the time of empanelment was different. Since it was obvious that he had furnished a different date of birth at the time of empanelment which was not his real date of birth the Bank recorded its dis-satisfaction over his reply and its intention to delete his name from the panel of Daily Wagers. He was not a regular employee of the Bank, but was only a Daily Wager whose services were utilised in leave vacancies from time to time. Since deletion of his name from the panel was for concealment of fact regarding his real date of birth, it does not come within the definition of ‘retrenchment’ as defined in Section 25-F of the Industrial Disputes Act. The Bank being a financial Institution cannot overlook the fact of deliberate furnishing a wrong information at the time of employment as Daily Wager. Hence, it is submitted that the action of the Bank in deleting the name of the concerned workman from the Daily Wagers is well founded and in order.

3. The case of the concerned workman as disclosed in the written statement, briefly stated, is as follows :

He joined the service of the Bank as Peon at Bari Bazar, Monghyr with effect from 1-8-84. Originally he was being provided work as and when vacancy was available in place of permanent employees during their absence on leave. He was interviewed for his engagement as regular peon and was provided with regular job with effect from 23-7-1985 as daily rated workman originally at the rate of Rs. 12 per day which was subsequently raised upto Rs. 27 per day. He continued

to work regularly upto 4-11-86 when his services were illegally terminated by the management. He worked as stated before at Bari Bazar, Monghyr and thereafter he was transferred to Rajah-Oraya Branch, Jhajha, where he worked for only two days and thereafter he was transferred back to Bari Bazar, Monghyr. Again he was transferred on 16-9-85 to Sheikhpura Katori Branch and again on 23-6-86 he was transferred back to Bari Bazar, Monghyr until his services were illegally terminated. According to the terms of service he was being paid for 7 days for working 6 days in a week. He completed more than 240 days work continuously with the Bank as a Peon. The management of the Bank by letter dated 20-8-86 issued under the signature of Divisional Manager stated that the date of birth in the school leaving certificate submitted by him was 1-1-66, but on enquiry from the school it was found that it was 1-1-64. He was asked to explain within three days and no reply was received from him within the said period his name would be deleted from the panel of daily wagers. He replied to the said letter within three days and stated in his statement that he has mentioned his date of birth on the basis of the certificate issued to him and there was no mala fide on his part. It has been ascertained by him that the date of birth was wrong given as 1-1-66 instead of 1-1-64 by the office of the school. The position was clarified by the Head Master of the School by letter dated 20-7-86 addressed to the Branch Manager, Monghyr Branch of the Bank. It was clearly stated by the Head Master that the entry in the School Leaving Certificate relating to his date of birth was mistakenly written by the school as 1-1-66 instead of 1-1-64. It is evident that the School Leaving Certificate issued by the School authority and submitted by him in the Bank is not forged document. He has not taken advantage of the incorrect date of birth as appearing in the School Leaving Certificate. He was neither over aged nor under age at the time of his appointment. It is really unfortunate that the Bank without holding any domestic enquiry in the matter has wrongly terminated his services in violation of the principles of natural justice by letter dated 15-10-86. Termination of service in violation of Section 25-F of the I.D. Act is illegal. He was neither paid one month's pay nor retrenchment compensation at the time of termination of service. Assistant General Manager is not also competent authority to terminate his service. Termination of his service is not only unjustified, but smacks of unfair labour practice on the part of the Bank. In the circumstances, the concerned workman has prayed that the action of the management in terminating his service with effect from 4-11-86 be held to be unjustified and he is entitled to be reinstated in service with full back wages.

4. In rejoinder to the written statement of the concerned workman, the Bank has denied that the concerned workman joined the service of the Bank on 1-8-84 and that he was engaged as regular peon with effect from 23-7-85 and that he was engaged only as a daily wager to meet the leave vacancy requirement which was temporary in nature. He was never appointed on regular basis. The Bank has further denied that his service was illegally terminated and that he had worked for more than 240 days. The Bank has admitted that the statement of the concerned workman that the Head Master of the School by letter dated 20-7-86 addressed to the Branch Manager, Monghyr Branch of the Bank informity that the entry in the school leaving certificate relating to the date of birth of the concerned workman was mistakenly written by the office of the School as 1-1-66 instead of 1-1-64 is based on records, and correct. His name was deleted from the panel of daily wager and since deletion of his name from the panel of daily wagers does not amount to termination of service, the question of violation of Section 25-F of the Industrial Disputes Act does not arise.

5. In rejoinder to the written statement of the Bank, the concerned workman has denied each and every allegation made therein.

6. The Bank in order to justify its action has examined only one witness, namely, MW-1 Thakurdas Sarkar, now posted as Accountant in Monghyr Branch of Canara Bank and laid in evidence only one item of document, namely, photo copy of wages paid to the concerned workman which has been marked Ext. M-1.

On the other hand, the concerned workman has examined himself and laid in evidence a series of documents which has been marked Exts. W-1 to W-4.

7. The case of the concerned workman is that he joined the service of the Bank as Peon at Bari Bazar, Monghyr Branch of Canara Bank with effect from 1-8-84 and that he was provided with the job as and when vacancy was available in place of permanent employees on leave. This statement of fact has been denied by the Bank in its written statement. The concerned workman has emphatically stated that he joined the service of the Bank on 1-8-84 and that he used to get work from the Bank from time to time with break in service. It appears that the concerned workman by petitions dated 20-3-89 and 30-6-89 prayed for production of Pay Bill Register of the daily wagers of the Bank, Monghyr Bari Bazar for the years, 1984 to 1986. Although the Bank was directed to produce these registers it did not do so. This being the position, I reach the inescapable conclusion that the concerned workman joined the service of the Bank as Peon at Monghyr Branch, Bari Bazar with effect from 1-8-84 and that he was provided with job as and when required by the Bank.

8. It is an irrefragable position that his name was sponsored by the District Employment Exchange and that he got service with the Bank as Peon with effect from 23-7-86 as daily rated workman originally at the rate of Rs. 13 per day which was subsequently raised to Rs. 27 per day.

9. The Sastry Award Para 508 has classified the Bank employees as follows:

- (a) Permanent employees;
- (b) Probationers;
- (c) Temporary employees; and
- (d) Time-rated employees.

The Award also defines permanent employees, probationers, temporary employees and part-time employees. Anyway, the Award does not envisage provision for appointment of daily-rated employees or daily wagers. The Desai Award has retained the classification of employees as rendered by Sastry Award. This being so, it appears that the Bank appointed the concerned workman as daily-rated employees in departure from the Awards as aforesaid.

10. Anyway, the claim of the concerned workman is that he was appointed on regular basis with effect from 23-7-85 while the contention of the Bank is that his appointment was not on regular basis.

It appears that the Bank has not issued any letter of appointment to the concerned workman. The concerned workman has emphatically asserted in its testimony that he started working regularly for the Bank with effect from 23-7-85 as Peon and that he worked regularly for the Bank from the date of appointment on 23-7-85 upto 4-11-86 when his service was terminated by the Bank. It is the first case of the concerned workman that he had worked for 240 days in a calendar year. The Bank has disputed this position. It appears that the concerned workman by petitions dated 20-3-89 and 30-6-89 prayed for production of Pay Bill Registers of daily wagers of the Bank, Monghyr Bari Bazar Branch for the years 1984 to 1986 containing particulars of payment made to him and Pay Bill Registers of daily wagers of Sheikhpura Branch of the Bank for the years 1985 and 1986 containing the particulars of payment made to him. He prayed for directing the management to produce these documents which was allowed. But the management instead of producing these registers produced photo copy of wages paid to the concerned workman (Ext. M-1). No explanation has been given as to why the registers called for have not been produced. Anyway, MW-1 Thakurdas Sarkar has admitted that he knows the concerned workman who worked in the Bank and that he has seen him working in the Bank for more than 240 days in 1986. The record bears out that the management submitted counter statement in answer to the case of the concerned workman before the A.L.C. (C), Patna-III and in the counter statement the Bank admitted that the concerned workman worked for 258 days in 1986 and 120 days in 1985. Thus, it is seen that immediately prior to his termination of service he worked for the Bank for more than 240 days in a calendar year.

11. Shri R. R. Bhattacharjee, Advocate for the Bank, has submitted before me that the name of the concerned workman was simply deleted from the panel of workmen and that such deletion does not come within the purview of either termination or retrenchment. The service of the concerned workman in the Bank came to an end by deletion of his name from the bank. It follows necessarily that his services were terminated by the Bank. Every termination of service except those contained in the proviso to Section 2(u) is retrenchment. This being the position, the concerned workman was retrenched from service by the Bank.

12. It has been contended by the Bank that the name of the concerned workman was deleted from the panel for grave misconduct on account of furnishing wrong date of birth at the time of his appointment.

It is the admitted position that the concerned workman submitted the School Leaving Certificate at the time of his appointment which indicated that his date of birth was 1-1-66. Subsequently it was found out that his actual date of birth was 1-1-64. It is firm case of the concerned workman that when he was asked to explain the discrepancy about the date of birth by letter of the Bank dated 2-8-86 (Ext. W-2) he submitted explanation stating that he provided the date of birth on the basis of certificate issued to him by the School and that there was no mala fide intention on his part. This position is borne from his letter to the management dated 30-8-86 (Ext. W-1). It is the undisputed case that the Head Master of the School wrote to the Bank on 20-7-86 that the date of birth of the concerned workman was mistakenly written by the School in the certificate as 1-1-66 instead of 1-1-64. This being the position, there was no attempt on the part of the concerned workman to conceal the fact of his real date of birth or to give any false declaration regarding his date of birth to the management. Anyway, even in spite of these facts it was considered by the management that the concerned workman had committed any misconduct, the Bank should have initiated domestic enquiry against him for the alleged misconduct. But without doing so, it terminated the services of the concerned workman.

13. There is no dispute that the Bank terminated the service of the concerned workman without complying with the provision of Section 25-F of the Industrial Disputes Act. Termination of service without complying with the mandatory provision is illegal. Hence, the action of the management in terminating the service of the concerned workman with effect from 4-11-86 is not justified. The concerned workman is entitled to be reinstated in service with effect from 5-11-86.

14. When termination of service is not justified payment of full back wages is the normal rule and the burden of proving that the normal rule shall not be followed and the employee should not be awarded full back wages is on the employer. The Bank has adduced no evidence to discharge this burden. That being so, the concerned workman is entitled to full back wages with effect from the date of his termination with effect from 5-11-86.

15. Accordingly, the following award is rendered—the action of the management of Canara Bank in terminating the services of the concerned workman with effect from 5-11-86 is not justified. The concerned workman is entitled to be reinstated in service with effect from 5-11-1986 and full back wages with continuity of service.

S. K. MITRA, Presiding Officer
[No. L-12012/26/88-D.II(A)]

का. आ. 2320—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक आफ इंडिया के प्रबन्धतंत्र के संबंध नियोक्तों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट का प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 2320.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial dispute between the employers in relation to the Central Bank of India and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE SHRI ARJAN DEV PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL PANDU NAGAR, DEOKI PALACE ROAD, KANPUR

Industrial Dispute No. 172 of 1988

In the matter of dispute between

Shri Subhash Chandra Sharma
C/o Sh. A. K. Kulshethra
6 P & T Colony Agra.

AND

Regional Manager,
Central Bank of India
1271 Bhairo Bazar
Belanganj, Agra.

AWARD

1. The Central Government, Ministry of Labour vide its notification No. L-12012/355/88-D.2(A) dt. 29th Nov., 1988, has referred the following dispute for adjudication to this Tribunal:

Whether the action of the management of Central Bank of India for terminating the services of Sh. S. C. Sharma, and not considering him for further employment while recruiting fresh hands under Sec. 25H of the I.D. Act, is justified? If not to what relief the workman is entitled?

2. In the present case on 17-11-89, the management filed written statement and thereupon the case was fixed for filing of rejoinder on behalf of the workman. But on the next dates i.e. on 4-12-89 & 23-1-90 Shri A. K. Kulshreshtha appeared for the workman but did not file rejoinder and sought adjournment on one pretext or the other, thereafter till 22-6-90 neither the workman nor his authorised representative appeared in the case nor they filed any rejoinder. Notices to file rejoinder were issued to the workman twice but despite that none appeared nor any application was moved in the case.

3. On 28-6-90 none appeared nor affidavit evidence was filed. Thus it appears that neither the workman nor his authorised representative is interested in prosecuting the case. Therefore, a no claim award against the workman is given, looking to the facts and circumstances of the case.

4. Reference is answered accordingly.

ARJAN DEV, Presiding Officer
[No. L-12012/355/88-D.II(A)]

का. आ. 2321—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कारपोरेशन बैंक के प्रबन्धतंत्र के संबंध नियोक्तों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 2321.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Hyderabad as shown in the Annexure in the Industrial dispute between the employers in relation to the Corporation Bank and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, A.P.,
HYDERABAD

PRESENT :

Shri K. Taranadh, B. Com. B.L.,

Dated, 21st June, 1990

INDUSTRIAL DISPUTE NO. 78 of 1988

BETWEEN

The Workmen of Corporation Bank, Mangalore,
Karnataka.

AND

The Management of Corporation Bank, Mangalore,
Karnataka.

APPEARANCES :

M/s. G. Bishapathi, G. Vidya Sagar, V. Vishwanatham,
N. Vinesh Raj and K. V. V. Bhaskar, Advocate for
the Workmen

Sri M. V. Durga Prasad, Advocate for the Management.

AWARD

The Government of India, Ministry of Labour by its Order No L-12612/729/87-D.II(A) dt. 4-8-1988 referred the following dispute under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 between the employers in relation to the management of Corporation Bank and their workmen to this Tribunal for adjudication :

"Whether action of the management of Corporation Bank in dismissing from service Sri V Nagender, Ex-special Assistant w.e.f. March, 1986 is justified? If not to what relief is the workman entitled?"

This reference was registered as Industrial Dispute No. 78 of 1988 and notices were issued to the parties.

2. The claim statement filed by the Petitioner stated that he was appointed as a Clerk in 1956, in 1983 he was promoted to the post of Special Assistant and in 1984 he was commanded for mobilising the deposits etc. The Bank was Nationalised in 1980 and the Branch Manager is authorised to extend the cheque discounting facility to the two customers namely M/s. Ambica Yarn Trading Company and M/s. Vijayalakshmi Yarn Trading Company to the extent of Rs. 25,000.00. It is submitted that some of the officials from the Head Office came to Sardar Patel Road Branch of the Bank on 18-7-1985 and inspected the records and demanded the Petitioner to give an undertaking that he had utilised cheque discounting facility of the customers for his personal use and that he created false entries in the respective books, they would launch criminal prosecution and he would be entrusted to the Police. Though there was no irregularity in the accounting system but apprehending harassment and prosecution, he gave a letter mentioning admitting certain things. Thereupon the Management issued a charge sheet in August 1985 alleging misconduct involving moral turpitude. The petitioner having been already to admit the misconduct, was completely disabled from making any statement by way of explanation. The so-called enquiry conducted by Sri P. Narayan Bhat, was a false of an enquiry. During the enquiry, he was made to understand that there is no grave misconduct and the matter would be viewed leniently. But he was surprised to receive a letter proposing to dismiss him from service. He submitted his explanation but finally he was removed by an order dt. 12-3-1986. It is against the principles of law and natural justice against the Rule 19.12(e) of the Bipartite Settlement and requested that to set aside the order of dismissal as illegal, arbitrary and pass an award directing reinstatement etc.

3. A written statement was filed by the Management, namely, the Bank denying all the allegations, contending that the Petitioner has got no power to discount the cheques and his act of purchasing/discounting cheques is wholly unauthorised, the entire transactions made by the Petitioner clearly show that he has indulged in unauthorised purchase of cheques and falsified the records, and Clause 19.12(e) of the

Bipartite Settlement applies where an enquiry need not be held under the circumstances as detailed thereunder. The past conduct cannot be extenuating factor and requested that the action of the Management may be upheld as the petitioner was guilty of grave misconduct and does not deserve any indulgence.

4. A perusal of the records indicate that the validity of the domestic enquiry was agitated before my learned predecessor and by virtue of his order dt. 27-10-1989, he held that the enquiry is not initiated.

5. Hence the matter is now heard finally.

6. The facts are not in dispute and as many as 16 documents were marked for the Management with consent. Ex. M7 is the findings of the Enquiry Officer. As per it, as the Petitioner pleaded guilty of all the charges. In view of the negligence and pleadings of all the charges levelled against the Petitioner, he was found guilty of all the charges. A perusal of the record further indicates that the petitioner gave a letter Ex. M2 to the Deputy General Manager dated 19-7-1985. On the basis of this, a charge sheet was issued (Ex. M3) again he made a statement pleading guilty before the Enquiry Officer on 26-11-1985 (Ex. M6). Thus these three documents are very important (Exs. M2, M3 and M6). As per the charge sheet Ex. M3, two cheques were purchased on dt. 21-1-1985 and 21-1-1985 and he took a handloom of Rs. 10,000.00 from Sri Pandu, one of the partners of the firm M/s. Ambica Yarn Trading Company, for adjusting the cheque purchased, an entry was made in the accounts etc.

7. In Ex. M2 is the letter to the Deputy General Manager, he made a categorical admission as follows "On 22-1-1985 I have un-authorisedly purchased two instruments aggregating to Rs. 1,500.00. On 8-3-1985 I have passed the unauthorised entry in D.B.C. ledger for Rs. 10,000.00 in connection with the purchase of a cheque. Actually there was no instrument tendered by the party". "I have utilised a sum of Rs. 25,000.00 for my earlier debits incurred in connection with my cousin's marriage. I assure you Sir, in future these mistakes will not be repeated and I request you to condone my action and pardon me." His statement before the Enquiry Officer (Ex. M6) reads as follows :

"I plead guilty to all the charges namely charges 1 to 3 mentioned in the charge sheets 31-8-1985 and I do not wish to make any defence."

While Ex. M2 was in his own handwriting Ex. M6 was a typed one. Thus about the proving of the charges, there cannot be any doubt.

8. Of course in this connection the learned Advocate for the Petitioner placed strong reliance on Clause 19.12(e) of the Bipartite Settlement, it simply states that "An enquiry need not be held if : (iii) the employees makes a voluntary admission of his guilt in his reply to the aforesaid show cause notice." A perusal of this Clause 19.12(e)(i) indicates that the enquiry need not be held if "the misconduct is such that even if proved, the Bank does not intend to award the punishment of discharge or dismissal". Likewise Clause 19.12(e)(iii) says that "If the employee makes a voluntary admission of his guilt in his reply to the aforesaid show cause notice" an enquiry need not be held.

9. Here the employee made the voluntary admission of his guilt but the Bank awarded the punishment of dismissal. A perusal of this Clause 19.12(e) indicates that all the three must be put together and the wording used was 'but not' 'or'. Hence even an employee makes voluntary admission of his guilt, if the Bank intends to award punishment of discharge or dismissal, an enquiry should be held. Here the enquiry was held. But no witnesses etc. were examined.

10. For this the learned Advocate for the Management contended that admitted facts need not be proved and in fact an enquiry was held but in view of the voluntary admission of the guilty by the Petitioner, no witnesses were examined and under any stretch of imagination, it cannot be said that enquiry was not held at all. This Tribunal feels that the arguments advanced by the learned Advocate for the Management is absolutely correct.

11. Next coming to the aspect of punishment, here the facts are very much clear. It is true that he resorted to very unfair practice involving moral turpitude. The only salient feature is no loss was caused to the Bank and he somehow managed to see that the amounts were repaid. It is submitted at the time of argument that the amounts were paid finally before the conclusion of this enquiry etc. The Petitioner has put in a long period of service and by the date he resorted to this practice, he already put in 29 years of service and he was also promoted as a Special Assistant and in that post, he completed more than one year service. It is submitted that utmost he is having another three or four years of service as the retirement age is 60 years, and the Bank sustained no loss.

12. It is true, as rightly contended by the learned Advocate for the Management, that people repose utmost confidence in the Bank and their accounts and if the accounts of the Bank are to be falsified in this way, there can be no protection for a common man etc. This argument also cannot be denied. But this thing could happen only when the cheque discount facility was given and those parties allowed him to have some facility. Without the connivance of the parties concerned, he might not have dared to resort to this act. These are only salient features in this case.

13. In this connection, the learned Advocate for the Petitioner placed strong reliance on WORKMEN OF FIRE-STONE TYRE & RUBBER CO. v. MANAGEMENT (1973) (JLLJ, page 278) a Judgement of the Supreme Court. It was held that once the misconduct is proved, either in the enquiry and evidence placed before the Tribunal for the first time, punishment imposed cannot be interfered with by the Tribunal except in cases where the punishment is so harsh as to suggest victimisation.

14. He also placed reliance on GUJARAT STEEL TUBES LTD. v. G. S. T. MAZDOOR SABHA (1980) (JLLJ, page 137). Of course this is not very much relevant for one purpose because it deals with the strike and it was held that a passive participation in a strike which is both illegal and unjustified, does not ipso facto invite dismissal or punitive discharge.

15. Lastly reliance was placed in B.A.M.U. PATNA v. MGPT. S.B.A.B. PVT. LTD. (1984)(JLLJ, page 116). But this deals with interpretation of payment of Bonus Act. Reliance was also placed on page 546. It was held that "use of abusive language is not a serious one and removal from service is not justified".

16. These decisions may not be of much use for us. As mentioned above, here the petitioner who has put in nearly 30 years of service though there is moral turpitude and proved in conduct, no financial loss was caused to the Banking Institute, some others connived with him to facilitate him to act in this way and more than all these things, he was punished sufficiently for his proved misconduct by being without job for more than four years.

17. In view of all these things only, this Tribunal is persuaded to take a lenient view in the matter. Hence though the charges were found to be proved, an Award is hereby passed ordering immediate reinstatement of the Petitioner into service with only continuity of service but no back wages and no attendant benefits. He should be started on the scale which he was getting at the time of his dismissal from service and if that scale has undergone any revision, he is entitled only for that revisionary benefits.

Award is passed accordingly.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal this the 21st day of June, 1990.

SRI K. TARANADH, Industrial Tribunal

[No. L-12012/729/87 D II (A)]

APPENDIX OF EVIDENCE

Witness Examined : for the Management

NIL

Witnesses Examined : for the Workmen.

NIL

DOCUMENTS MARKED FOR THE MANAGEMENT BY CONSENT.

- Ex. M1 RM Con[016/85 dt. 12-7-1985 of the Regional Manager, Corporation Bank, Regional Office, Hyderabad issued to V. Nagender.
- Ex. M2 Letter dt. 19-7-1985 of V. Nagender addressed to the Deputy General Manager, Branches Inspection Department, Head Office, Mangalore with regard to D.B.C. 9-10-11 of 1985.
- Ex. M3 Charge Sheet dt. 31-8-1985 issued to V. Nagender by the Asstt. General Manager (Competent authority) Corporation Bank.
- Ex. M4 Letter dt. 18-9-85 of V. Nagender to the Asstt. General Manager, with regard to charge sheet.
- Ex. M5 Copy of the Order Sheet dt. 26-11-1985 of the enquiry proceedings.
- Ex. M6 Statement dt. 26-11-1985 of V. Nagender pleading guilty to the charges before the Enquiry Officer.
- Ex. M7 Report dt. 1-1-1986 of the Enquiry Officer.
- Ex. M8 Letter dt. 22-1-1986 of the Disciplinary Authority issued to V. Nagender, with regard to second show cause notice proposing punishment.
- Ex. M9 Reply to the second show cause notice submitted to Asstt. General Manager, Corporation Bank, Mangalore dt. 18/25-2-1986 by V. Nagender.
- Ex. M10 Proceedings dt. 25-2-1986 of the Personnel hearing afforded by the disciplinary authority to V. Nagender.
- Ex. M11 Letter No.HRD/DISC/518/86 dt. 14-3-1986 of the Manager, Disciplinary Cell addressed to V. Nagender enclosing the orders dt. 12-3-1986 of the Assistant General Manager (Disciplinary Authority).
- Ex. M12 Letter dt. 2-5-1986 of V. Nagender addressed to the Deputy General Manager (Appellate Authority) with regard to dismissal vide letter HRD/DISC/518/86 dt. 14-3-1986.
- Ex. M13 Proceedings dt. 7-6-1986 of the personal hearing afforded to V. Nagender by the Appellate Authority.
- Ex. M14 Letter No. HRD/DISC/1577 dt. 24-7-1986 of the Chief Manager, Disciplinary Cell, enclosing the orders dt. 23-7-1986 of the Deputy General Manager (Appellate Authority).
- Ex. M15 Memo petition dt. 31-7-1986 of V. Nagender addressed to Chairman, Corporation Bank, H. O. Mangalore.
- Ex. M16 Letter No. HRD/DISC/2312/86 dt. 25-9-1986 of the Chairman and Managing Director addressed to V. Nagender with regard to Disciplinary Proceedings.

DOCUMENTS MARKED FOR THE WORKMEN

NIL

Industrial Tribunal

का. आ. 2322—औद्योगिक विवाद /अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में केन्द्रीय सरकार अधिनियम श्रमिकों के प्रवर्धन के, संबंध नियोजकों और उनके कर्मचारों के बीच संबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कोलम् के पंचगट का प्रकाशित करती है, जो केन्द्रीय सरकार का प्राप्त हुआ थ. ;

S.O. 2322.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Kollam as shown in the Annexure in the Industrial dispute between the employers in relation to the Indian Overseas Bank and their workmen, which was received by the Central Government.

ANNEXURE

IN THE COURT OF THE INDUSTRIAL TRIBUNAL, KOLLAM

(Dated, this the 6th day of July, 1990)

Industrial Dispute No. 38/89

BETWEEN

The Assistant General Manager, Indian Overseas Bank, Zonal Office, 10B Building, M.G. Road, P.B. No. 277, Trivandrum.

(By Sri. Jose Mackil, Advocate, Kottayam)

AND

Sri M. P. Vijaya Kurup, C/o. Vasudevan Pillai, Vechoore Kadavu, Pallyil Lane Road, Cochin-682016.

(By Sri. M. Ramachandran & Sri. P. V. Abraham, Advocates, Cochin)

AWARD

The Government of India, as per order No. L-12012/5/89-D.II(A) dated 15-5-1989 has referred this industrial dispute between the above parties for adjudicating the following issue :—

SCHEDULE

"Whether the action of the management of Indian Overseas Bank in dismissing from service Sri. M. P. Vijaya Kurup, Daftary is justified? If not, to what relief is the concerned workman entitled?"

II. The dismissal of the workman was after a domestic enquiry. The workman had a case that there was no proper and valid enquiry. Therefore the validity of the enquiry was tried as a preliminary issue. By order dated 26-6-1990 this Tribunal found that there was a proper and valid domestic enquiry. To understand the facts involved in this case I shall quote below the order in full :

ORDER

The dismissal of Sri. Vijaya Kurup, Daftary from the service of management bank has resulted in this reference. The management initiated disciplinary proceedings against Sri. Vijaya Kurup on the basis of the following charges :

CHARGE

It is reported that while you were working at Kerala Spinner's Ltd. Extension Counter as Daftary, you had

committed the undernoted acts of commission and omission :

On 7th July 1983, you brought a withdrawal slip for Rs. 600/- drawn on S.B. Act. No. 1055 of Sri. Janardhanan Nair wherein the signature of the account holder was forged and persuaded the Officer-in-charge of the Extension Counter Sri. Subramaniam to pass it for payment.

It is further alleged that you also intimated Sri. Subramaniam that you know the particular account holder and that he was at the counter awaiting payment and thus got withdrawal slip encashed.

When the account holder came to the Extension Counter on 8-7-1983 and disputed the payment of Rs. 600/- made on 7-7-1983, you made good the amount.

The explanation submitted by the delinquent did not find favour with the management and hence a domestic enquiry was ordered. One of the officers of the bank conducted the enquiry as enquiry officer. The workman participated in the enquiry fully and the enquiry officer found him guilty of the charge. Accepting the enquiry findings the management dismissed Sri Vijaya Kurup from the service of the bank.

2. In the statement filed by the worker before this Tribunal while pleading innocence contended that in the domestic enquiry no evidence had forth come to establish any guilt against him. He had been asked to give statements implicating him. Further he was not afforded adequate opportunity to defend himself in the enquiry. The extreme punishment was imposed on him through there was no evidence against him without considering his unblemished record of 16 years service. According to the delinquent the enquiry officer was biased and perverse. The enquiry was not fair. During the period of enquiry he was transferred to Trivandrum and he was seriously handicapped for he could not gather or submit useful evidence to disprove the allegations. The further case is that he is now out of employment and his family has gone off the rail.

3. In the reply statement the management bank contended as below: The domestic enquiry was conducted in compliance with all the principles of natural justice. The workman was represented by his union office bearer and the witnesses of management were cross examined fully. The workman was given opportunity to adduce evidence. The letters dated 15-7-1983 and 4-8-1983 of the workman are clear admissions of gross negligence and misconduct of the workman. The evidence of management's witnesses in the enquiry clearly prove the guilt of the workman. The offence committed by the workman is serious in nature and hence he was awarded the punishment of dismissal based on the evidence of witnesses. It is proportionate to the gravity of punishment. Honesty and integrity of the employees is paramount importance in the bank and if workman like the delinquent is retained in service the image of bank will be tar-

nished in the eyes of public. The disciplinary authority as well as the appellate authority has considered all the aspects of the matter and passed appropriate orders. The management denied all other contentions advanced by the workman in his statement.

4. The workman in his counter statement denied the case advanced by the management. It is further stated that the bank had no jurisdiction to initiate disciplinary action on the facts stated in the reply statement of management and the charge sheet. In view of the bipartite settlement the allegation of defalcation and forgery could not have been made subject matter of disciplinary action. The complaint ought to have been made to police. According to the workman the above basic defect had vitiated the entire proceedings and hence the dismissal is liable to be set aside.

5. Since the validity and propriety of the enquiry was under attack, I have considered it as a preliminary issue. The enquiry officer has given evidence as MW1, and file containing enquiry proceedings have been marked as Ext. M1. The book containing service conditions of the employees of the bank was marked as Ext. M2. No evidence has been adduced on the side of the workman.

6. The charge against the delinquent in brief is that he had caused withdrawal of Rs. 600/- from an account with a forged withdrawal slip without the relative pass book and without the knowledge of the account holder. The first point of attack against the enquiry is that the enquiry was conducted not in conformity with the principles of natural justice and that the worker was not given sufficient opportunity to lead evidence. The delinquent was represented by the general secretary of his union throughout the enquiry as requested by him. The representative fully cross examined all the witnesses examined on the side of the management. All pages of the enquiry proceedings have been signed by him and his representative on every day without raising any protest or objection. Enquiry officer has afforded opportunity to the worker to lead evidence. But he did not offer himself to give evidence or did not examine any witness or produce documents on his side. He did not raise any objection against the enquiry officer or the procedure adopted by the enquiry officer. No procedural irregularity has been pointed there till the completion of the enquiry. It is thus clear that the enquiry officer has conducted the enquiry fully in conformity with the principles of natural justice and therefore this contention is without force.

7. The second objection is that the enquiry officer had shown more haste. Enquiry officer had allowed 20 adjournments and took three years times to complete the enquiry. Hence the allegation of haste is devoid of merit.

8. The third objection is that the delinquent was transferred to Trivandrum during the enquiry and he was seriously handicapped in gathering evidence and that no time was given for preparing and

participating in the enquiry. He was transferred to Trivandrum due to his own actions. He has fully participated in the enquiry without raising any objection and he had ample time to adduce evidence. But he failed to adduce any evidence on his side. Has not applied for adjournments on the ground that he was transferred to Trivandrum and require more time to gather evidence. Further it took three years to complete the enquiry. In these circumstances this objection is also unsustainable.

9. The fourth argument is that no evidence is forthcoming in the enquiry to establish the guilt of the workman and he was asked to give statement implicating him. No evidence is forthcoming in support of this argument. As per letters dated 15-7-1983 and 4-8-1983 he has admitted that he has filled up the withdrawal slip for Rs. 600/- without the pass book. He has further admitted that he had introduced the account holder wrongly to the officer-in-charge and he held himself solely responsible for the loss incurred by the bank and pleaded that his mistake may be pardoned. These letters are in his own handwriting. It is not at all stated that at whose instance he had executed such statement and what type of statement was given. Hence the present contention can only be an after thought to escape from the clear admission made by him. Further he has made good the amount which also support his guilt. The explanation of the delinquent is that he has only filed up the withdrawal slip for the account holder and did not do any other misconduct. But the account holder has denied that. It has come out in evidence through the account holder that he invariably used to come in person for withdrawal the amount. He has the signature in the withdrawal slip. The evidence of MW2, in the enquiry, who was in charge of the extension counter and other witnesses fully corroborate the guilt of the delinquent. It is proved in the enquiry that the delinquent persuaded the officer-in-charge to pass the forged withdrawal slip without the relative pass book and token telling that he knew the account holder who is waiting at the counter. This corroborated by the letters of delinquent dated 15-7-1983 and 4-8-1983 as stated by me above. Further after admitting the guilt he made good the amount and pleaded for exoneration. Nothing has been brought out in the enquiry to disbelieve or discredit the statement of management's witnesses regarding the guilt of the workman. The enquiry officer has verified the admitted signature of the account holder and the subsequent signature in the withdrawal slip and found that the signature in the slip was forged. On verification it is clear that there is marked difference in these signatures. The account holder always put a dash in his signature but it is not seen in the disputed signature in withdrawal slip. The strokes are also different. The enquiry officer has considered the evidence fully and came to the conclusion. There is no perversity and it cannot be said that he was biased.

10. Now remains the criticism that the enquiry officer acted as Prosecutor and Judge and hence the

enquiry if vitiated. It is true that there was no officer for conducting the prosecution on the side of management. But what the enquiry officer has done as evidenced by Ext. M1 proceedings was to put questions to the management witnesses and elicit answers and allow the representative of the worker to cross examine those witnesses. The enquiry officer has allowed the worker to lead evidence. But he did not adduce any evidence. Therefore the criticism of the worker on this point is without force. As a matter of fact the enquiry proceedings have been completely fair and impartial. In this state of affairs the decision of the Supreme Court reported in 1970 (ii) LLJ-26 relied on by the learned counsel for the delinquent will not come to his rescue. It is also evidence from Ext. M1 file that the enquiry officer was not the Appellate Authority as contended by the learned counsel for the worker. The enquiry cannot therefore be said to be vitiated. This contention of the worker also therefore fails.

11. For the foregoing reasons I hold that the enquiry is proper, legal and valid.

III. Now remains the question as to whether workman is entitled to any relief in the matter of punishment in the light of my above finding. The learned counsel for the workman would contend that the workman was having a long period of unblemished service in the bank and there was no complaint against him so far. Hence the argument of the learned counsel is for considering the question of punishment in a sympathetic way as he was never charge sheeted for misconduct in his service of sixteen years in the Bank. But the learned counsel for the management would vehemently oppose this argument. According to the learned counsel for the management the Bank is dealing with the money of public and if persons like the delinquent is allowed to continue it will tarnish the image of the Bank in the public. The delinquent forged the withdrawal slip and the action of the delinquent resulted financial loss to the Bank. His sixteen years of unblemished service in the Bank is not a justification for the act of delinquent which is proved against him. The delinquent who was bound to be honest and trustworthy had himself forged the signature of an account holder in the withdrawal slip, persuaded the officer-in-charge to pass it for payment and thus encashed the slip by a fictitious person. Thus he committed grave offence. It is true that the amount involved is only Rs. 600/-. But in such cases the action of the concerned person is not to be judged on the basis of the magnitude of the amount. It is to be judged from the view point of the position held by him and the gravity and the baseness of the offence in question as pointed out by the Gujarat High Court in the case G.S. Shambhani V. State Bank of India, Ahmedabad (1985) (i) All India Service Law Journal page (56) while considering a similar issue. It is proved that the worker acted against the interest of the management bank in the case before me and for his own benefit. He therefore deserves the deterrent punishment for his offence.

IV. On a consideration of all these circumstances it cannot be said that the order of dismissal is

excessive or unjustifiable. The punishment imposed by the management is only proper and this Tribunal will not be justified in interfering with the same. The workman is not entitled to any relief in the matter of punishment.

V. In the result an award is passed upholding the order of dismissal passed by the management against the workman, Sri. M. P. Vijaya Kurup.

C. N. SASIDHARAN, Industrial Tribunal

[No. L-12012/5/89-D.II(A)]

APPENDIX

Documents marked on the side of the Management

Ext. M1. Fine containing enquiry proceedings, statement of witnesses and documents

Ext. M2. Book containing settlements on service conditions of Award Staff.

का. घा. 2323—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एक्सपोर्ट इम्पोर्ट बैंक ऑफ इंडिया के प्रबन्धन, के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 1) बम्बई के पंचपट का प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 2323.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1 Bombay as shown in the Annexure in the Industrial dispute between the employers in relation to the A Export-Import Bank of India and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT BOMBAY

(PRESIDING OFFICER : JUSTICE S. N. KHATRI)

Reference No. CGIT-8 of 1988

PARTIES :

Employer in relation to the management of Export-Import Bank of India.

AND

their workmen.

APPEARANCES :

For the Management.—Shri Bhat, Advocate.

For the Workmen.—Shri Vaidya and Shri Chari, Advocates.

INDUSTRY : Banking STATE : Maharashtra
Bombay, dated the 19th day of July, 1990

AWARD

The Central Government has referred the following industrial dispute to this Tribunal for adjudication under section 10 of the Industrial Disputes Act, 1947.

"Whether the action of the management of Export-Import Bank of India, Bombay in relation to its establishment at Bombay in dismissing Shri A. Parameshwaran, Driver-cum-Messenger from service with effect from 19th December 1986 is justified? If not, to what relief is the workman entitled?"

2. A. Parameshwaran (hereafter, 'the workman') has been working as Driver-cum-messenger with the Export-Import Bank, Bombay (hereafter 'the Bank') since October 1982. Admittedly M/s. Dalal Automobiles, Bahadur Estate (hereafter 'the Garage') of which one Rajendra Mehta is the proprietor, took after the repair and upkeep of the Bank's cars. It is not in dispute that the workman used to take one or the other of these cars to the Garage for repairs since the middle of 1985 or so. On 4-3-1986, the Bank received a letter from Mehta that the workman had obtained bribe of Rs. 750 from the Garage. After verifying the facts from Mehta the Bank issued a chargesheet to the workman on 21-3-1986 for the alleged misconduct of securing illegal gratification from the Garage, Rs. 500 on 2-1-1986 and Rs. 250 on 13-1-1986, by giving a threat that he would deliberately engineer mechanical breakdowns of the Bank's cars, unless the Garage paid him commission. The chargesheet further mentioned that the acts of the Workman amounted to 'gross misconduct of taking unlawful commission and to doing acts prejudicial to the interests of the Bank. One Shri Gokabhoy, Deputy Manager, was appointed the Enquiry Officer and Shri Dalal, the Presenting Officer. After the inquiry was over, the Enquiry Officer submitted his findings to the Disciplinary Authority, Shri G. G. Bulsara, on 29-10-1986. After hearing the workman and his representative Shri Joshi, Shri Bulsara confirmed the findings of the Enquiry Officer and dismissed the workman from service for good by his order of 18th December, 1986.

3. The workman had in his statement of claim inter alia challenged the validity of the inquiry. However at the stage of hearing, he had not pressed this aspect and his learned counsel Shri Chari has restricted his challenge only to the merits of the order. I am therefore not adverting to the grounds on which validity of the inquiry was questioned. The Workman denies to have received any money from Mehta or signed either of the two vouchers dated 2-1-1985 or 13-1-1986 (marked as Ex. M-2 and Ex. M-3 in the enquiry proceedings), as alleged by the Bank. He claims reinstatement with full back wages. The Bank deny the Workman's claim and justify his dismissal as proper.

4. The parties have not led any evidence before the Tribunal, as, indeed they could not have done so, once the Workman had given up his challenge to the validity of the inquiry. Shri Chari for the Workman and Shri Bhat for the Bank have taken me through the entire inquiry proceedings, including the impugned order which the Bank have filed before me. The arguments were concluded practically five months back. As I am without a Stenographer for almost 3 months now, I could not prepare this award earlier. The delay is very much regretted.

5. The two issues for consideration are : (1) whether the order of dismissal is justified and (2) if not, whether the workman is entitled to reinstatement with full back wages. My findings are : (1) the order of dismissal is not justified, inasmuch as the misconduct imputed to the workman is not substantiated by acceptable evidence, and (2) he is entitled to reinstatement with full back wages. I proceed to give my reasons for these findings.

6. In the course of the inquiry, the Bank examined three witnesses—Mehta, Gajjar, Hand Writing Expert, and Lt. Col. Naik, Administrative Officer of the Bank. In rebuttal the Workman examined himself, Wagh, Hand Writing Expert and H. S. Amin, Deputy Manager of the Bank. Mehta stated that the workman was paid Rs. 500 as commission on 2-1-1986 and Rs. 250 on 13-1-1986 by his Accountant in his (Mehta's) presence. The workman signed two vouchers in favour of the Garage, bearing revenue stamps. The first one Ex. M-2 bears the date 2-1-1985 and the second Ex. M-3, 13-1-1986. It is the case of the Bank that the workman had disguised his signature by changing his ordinary style of writing and also by assuming a different name 'Rameshwaran'. Mehta has explained that the date 2-1-1985 obtaining on the first voucher is wrong, the correct being 2-1-1986. As the new year had just started and the Garage was closed on 1st January 1986 on account of the New Year's day, the Accountant, by sheer force of habit, put the year '85' instead of 86 on the voucher. Hand Writing Expert Gajjar affirms to have examined the two disputed signatures on Ex. M-2 and Ex. M-3 along with the admitted signatures of the workman, and come to the opinion that the disputed and the admitted signatures are in the hand writing of one and the same person. Lt. Col. Naik, Administrative Officer of the Bank, states that the Bank received a written complaint dated 4-3-1986 (Ex. M-4) from Mehta to the effect that the workman had threatened to deliberately engineer mechanical breakdowns of the Bank cars repaired and serviced by the Garage, if the latter did not pay him commission. In support of their allegation that they accordingly paid him Rs. 500 on 2-1-1986 and Rs. 250 on 13-1-1986, they enclosed copies of the two stamped receipts (vouchers Ex. M-2 and M-3). On instructions of the Management Col. Naik visited Mehta on 5-3-1986 to verify the allegations and collected the originals of the two vouchers from Mehta. As the two vouchers showed the name of the payee as Rameshwaran, Col. Naik asked Mehta to explain the discrepancy. The latter told that the workman might have given his name as Rameshwaran to the Accountant who had prepared the two vouchers. Later on the two vouchers were sent to Hand Writing Expert Gajjar for his opinion. The evidence of Gajjar (Ex. MW-3) is to the effect that after examining the documents carefully, he had come to the conclusion that the author of the disputed and admitted writings is the same. He has given the reasons for his opinion at Ex. M-13 dated 12-3-1986.

7. The workman denies to have received any commission from Mehta or signed on Ex. M-2 and M-3. He denies that he gave any threat to Mehta as alleged. His suggestion is that the Bank have

brought a false charge against him in collaboration with Mehta, because of his being an active office bearer of the Workers' Union. Hand Writing Expert Wagh states that in his opinion the disputed signatures and the admitted ones are not made by one and the same person, thereby implying that the workman is not the author of the disputed signatures. He states that it cannot be opined with certainty that even the two disputed signatures are made by one and the same person. Amin who is the Deputy Manager of the bank is the last witness for the workman, who has been examined to prove a letter written by the Bank to Gajjar (Ex. M-4) requesting him to examine the disputed signatures and give his opinion about their authorship. The evidence of this witness, apart from proving the aforesaid letter, is not material on any other aspect. Here it may be mentioned that this letter is hand written by Amin, and is not typed out, as is usual in official correspondence. Amin states that he personally wrote out the letter because the Bank desired to keep the reference to the Handwriting Expert confidential. I do not think one can smell anything remains in this.

8. The Enquiry Officer has accepted the evidence of the three Bank witnesses as reliable. He has accepted Mehta's explanation about the discrepancy of the date on the first voucher (Ex. M-2), namely that by force of habit the Accountant inadvertently put the year 1985, instead of 1986. He preferred Gajjar's opinion to Wagh's, because the former had given convincing reasons for his opinion, while Wagh 'had not thoughtfully examined the writings and reached his conclusion'. The misconduct was thus held duly established. The Disciplinary Authority confirmed these findings and passed the impugned order.

9. Now before me Shri Chari for the Workman has assailed the finding on the ground that it is virtually perverse. He points out that the Accountant who is actually said to have made the two payments has not been examined, although he was available. His evidence would have been material on the question of the identity of the true payee and the signatory of the two receipts. The delays of about 7 weeks in Mehta's making the complaint to the Bank was adversely commented upon by Shri Chari. Dealing with the evidence of the two Handwriting Experts, the learned Counsel urged, there are no good reasons to prefer Gajjar's opinion to Wagh's. He also pointed out that even otherwise the opinion of a Hand Writing Expert, even when it remains un rebutted, is treated as a weak kind of evidence, and that this aspect was not at all present to the mind of the Enquiry Officer. It was further submitted by Shri Chari that Col. Naik did not care at all to collect reliable evidence like account books of the Garage etc. to show that payments were actually made to the Workman and none else.

10. As against this, Shri Bhat for the Bank supported the findings of the Enquiry Officer for the reasons stated by him in his report. The learned Counsel also stressed that against the backdrop that the workman has not pressed his challenge to the fairness and validity of the enquiry proceedings, it will not be open to this Tribunal to undertake a meticulous fresh sifting and weighing the evidence,

as if it were a Court of appeal. According to him, the Tribunal has only to see whether there is some evidence available on record to sustain the finding of the Enquiry Officer. If it is there, the Tribunal should not disturb the findings, unless it thinks that the finding is perverse or smacks of victimisation. Shri Bhat has relied upon a Supreme Court decision reported in 1964 1 LLJ 38 Union of India vs. Goel. He concluded his submissions by arguing that the finding was eminently reasonable and borne out by reliable evidence and that the Tribunal should uphold the same and reject the reference in toto.

11. I shall first dispose of the question as to the parameters within which this Tribunal ought to deal with the evidence, in view of the fact that the workman has given up his objection to the validity of the inquiry. I think the correct legal position in this regard is enunciated by the Supreme Court in their decision reported in 1973 1 LLJ 278 Workmen of Firestone Tyre and Rubber Company vs. the Management. The Court has summarised in para 29 of their judgement, the overall legal position as obtaining on 15-12-1971 prior to the insertion of section 11A of the Industrial Disputes Act. So far as a case where valid inquiry is held is concerned, the Supreme Court ruled :

"When a proper enquiry has been held by an employer, and the findings of misconduct is a plausible conclusion flowing from the evidence adduced at the said enquiry, the Tribunal has no jurisdiction to sit in judgement over the decision of the employer as an appellate body. The interference with the decision of the employer will be justified only when the findings arrived at in the enquiry are perverse or the management is guilty of victimisation unfair labour practice or mala fides.

Once the misconduct is proved either in the enquiry conducted by an employer or by the evidence placed before a Tribunal for the first time, punishment imposed cannot be interfered with by the Tribunal except in cases where the punishment is so harsh as to suggest victimisation."

12. Now the post-1971 position again in the words of the Supreme Court itself (para 33 of the judgment) :

"We will first consider cases where an employer has held a proper and valid domestic enquiry before passing the order of punishment. Previously the Tribunal had no power to interfere with its finding of misconduct recorded in the domestic enquiry unless one or other infirmities pointed out by this Court in Indian Iron & Steel Co. Ltd. (supra) existed. The conduct of disciplinary proceeding and the punishment to be imposed were all considered to be a managerial function with which the Tribunal had no power to interfere unless the finding was perverse or the punishment was so harsh as to lead to an inference of victimisation or unfair labour practice. This

position, in our view, has now been changed by S.I.A. The words "in the course of the adjudication proceeding, the Tribunal is satisfied that the order of discharge or dismissal was not justified" clearly indicates that the Tribunal is now clothed with the power to reappraise the evidence in the domestic enquiry and satisfy itself whether the said evidence relied on by an employer established the misconduct alleged against a workman. What was originally a plausible conclusion that could be drawn by an employer from the evidence, has now given place to a satisfaction being arrived at by the Tribunal that the findings of misconduct is correct. The limitations imposed on the power of the Tribunal by the decision in *Indian Iron & Steel Co. Ltd. case* (supra), can no longer be invoked by an employer. The Tribunal is now at liberty to consider not only whether the finding of misconduct recorded by an employer is correct, but also to differ from the said finding if a proper case is made out. What was once largely in the realm of the satisfaction of the employer, has ceased to be so, and now it is the satisfaction of the Tribunal that finally decides the matter."

13. Here it may be mentioned that the limitations imposed on the powers of the Tribunal by the decision in *Indian Iron and Steel Company Limited* were that the Tribunal in cases of dismissal on misconduct does not act as a court of appeal and substitute its own judgement for that of the Management and that the Tribunal could interfere only where (i) there was want of good faith or victimisation or unfair labour practice; (ii) the Management was guilty of a basic error or violation of any principle of natural justice or (iii) the finding on the materials of the enquiry was totally baseless or perverse.

14. As regards the quantum of punishment also, the power of the Tribunal have been enhanced. Again to quote the words of the Supreme Court itself from para 38 of the judgement :

...a Tribunal may hold that the punishment is not justified because the misconduct alleged and found proved is such that it does not warrant dismissal or discharge. The Tribunal may also hold that the order of discharge or dismissal is not justified because the alleged misconduct itself is not established by the evidence. To come to a conclusion either way, the Tribunal will have to reappraise the evidence for itself. Ultimately it may hold that the misconduct itself is not proved or that the misconduct proved does not warrant the punishment of dismissal or discharge. In other words, the Tribunal may hold that the proved misconduct does not merit punishment by way of discharge or dismissal. It can, under such circumstances,

award to the workman any lesser punishment instead. The power to interfere with the punishment and alter the same has been now conferred on the Tribunal by S.I.A."

15. A word of caution. While it is absolutely true that the Tribunal must now re-appraise the evidence for itself and that it is the satisfaction of the Tribunal on the guilt of the Workman, that will ultimately prevail, where a proper inquiry is conducted by the Management and a correct finding arrived at regarding the misconduct, the Tribunal, even though it has now power to differ from the conclusions arrived at by the Management, will have to give every cogent reason for not accepting the view of the employer : vide para 51 of the decision. So the appraisal of the evidence has to proceed with this caution at the back of the mind. While at the one extreme it is not necessary that the finding must be supported by proof beyond reasonable doubt as rightly urged by Shri Bhat, it is also not necessary for the Tribunal, for setting aside the finding, to hold that it is perverse or afflicted by any of the factors adverted to in *Indian Iron and Steel Company Limited*. So this will be my approach in appraising the evidence on the guilt of the Workman.

16. The learned Counsel have taken me through the evidence adduced in the inquiry—oral as well as documentary—and the orders of the Enquiry Officer and the Disciplinary Authority. I have already adverted to Shri Chari's comments in para 9 supra. I need not repeat them. I do find substance in his submissions. Although Mehta insists that the two payments were made in his immediate presence, his evidence read in between the lines, belies this claim. As stated by him in the cross-examination, the practice followed in this connection is that Mehta instructs his Accountant to prepare the voucher, the Accountant prepares it, obtains the payee's signature on it and then puts the voucher before Mehta for his counter-signature. After Mehta countersigns the voucher, the Accountant pays the money to the payee. It appears that the actual acts of Accountant's taking the signature of the payee and finally paying the money to him do not take place in the immediate presence of Mehta. Now, if that is so, the evidence of the Accountant would have been of prime importance. The Bank have not given any explanation whatever for their failure to examine him. It is significant to note Mehta's claim that he was knowing the workmen by his name 'Parameshwaran' since July 1985 or so. If this be true and if the two vouchers were indeed prepared in Mehta's presence, showing his name as 'Rameshwaran', the discrepancy in the name and signature of the payee would not have missed his attention. When cross-examined on this aspect he said that the Workman might have given out his name as Rameshwaran to the Accountant. This explanation implies that the preparation of the voucher, the Accountant writing the name of the payee, payee signing the voucher and actual payment did not take place in the immediate presence of Mehta.

17. I fail to understand why the Accountant who actually made the payment is not examined although

he was available. While I appreciate that Mehta may not be having any personal animosity towards the workman, the fact remains that he did not make any grievance to the Management for more than seven weeks even after the second payment. The explanation given by him to the effect that he was ill for a week and was out of Bombay for some time, does not impress me. It is hard to swallow his submission that he made the payments, because he feared that otherwise the workman might tamper with the cars. Nowhere does he state that the workman had ever given any threat to engineer breakdown in the cars, as alleged in his letter of 4-3-1986 to the Bank. If Mehta had really got so scared of the workman, he would have at once rushed to the Bank, as soon as the latter had given any indication of his design. The Bank have also not arranged to get the cash book or other accounts maintained by the Garage from day to day, to fortify their case that the payments were made to the workman and none else. Here I may hasten to make it clear that, I am not impressed by the discrepancy in describing the year as 1985 in the first voucher, in place of 1986. Such slips often occur in the first few days of January. After everything is said and done, one cannot help feeling that the Accountant was a very important witness and should have been examined by the Bank.

18. This takes me to the submission of Shri Chari that the Enquiry Officer ought not to have preferred Gajjar's opinion to Wagh's and used it for corroborating Mehta. The Enquiry Officer who has taken great pains to write a long report running into 83 pages, had not anywhere given the remotest inkling of the long established proposition in law that a Hand Writing Expert's opinion is a very weak kind of evidence and should be accepted with great caution. It would be all the more so, where the disputed signatures are admittedly disguised ones and there are also material dissimilarities in them inter se. The Enquiry Officer has in rejecting Wagh's opinion, more or less adopted the usual yardstick of preponderance of probabilities. After observing that Gajjar has given convincing reasons for his opinion and Wagh has not thoughtfully examined the writings and reached his conclusion, the Enquiry Officer undertook upon himself a personal microscopic examination of the disputed signatures and ferreted out circumstances (enumerated in para 114 of his report) which prompted him to hold de hors the opinions of the experts that the workmen is the author of the disputed signatures. There is nothing on the record to show that the Enquiry Officer himself is an expert in Hand Writing. In any event he should have realised that he did not have the benefit of his opinion being tested on the anvil of cross-examination by the workman. I am constrained to say that the approach of the Enquiry Officer, notwithstanding the pains he has taken in the process, was not basically sound. For all these reasons, I hold that the Enquiry Officer went wrong in acting upon the opinion of Gajjar in preference to that of Wagh. I would refuse to accept the opinion of either.

19. We are thus left with the solitary word of Mehta. For the reasons already stated, it would be

hazardous to base the finding of the Workman's guilt on it.

20. Here I may refer to a criminal complaint No. 36[Misc]1986, the workman had filed against Mehta, Gaikwad (Deputy Manager of the Bank), M. S. Amin (Deputy Manager of the Bank in charge Administration), and Col. V. G. Naik (Administrative Officer of the Bank) before the Metropolitan Magistrate, 33rd Court at Ballard Estate, under Sections 467, 471 and 120-B I.P.C. on the allegation that they had conspired together to forge the two vouchers and use them against him. The learned Magistrate declined to issue process against any of the four accused and dismissed the complaint. The revision preferred by the workman to the High Court also came to be dismissed by Vaze J. The Courts felt that it was highly improbable that responsible officers of the Bank would stoop low enough to conspire with Mehta to fabricate false documents. It is sought to be urged before me that I should give due weight to the views of the High Court. I agree. But I cannot be oblivious of the fact that the focal question before the learned Magistrate and the High Court was qualitatively different from the one before me. There the question was—and it arose in a criminal proceeding where altogether different concepts including the one of the proof beyond reasonable doubt apply—whether the accused persons had committed forgery. The learned Magistrate did not give a firm finding that the documents were genuine in the sense that the workman had signed the same. He dismissed the complaint at the threshold because in his view it was highly improbable that responsible officers of a Bank and Mehta would hatch a conspiracy of the type they were charged with. Here before me the issue is whether it is the workman—and the workman alone—who has signed the two vouchers. And the burden to prove this is obviously on the Bank. What I mean to stress is that the position that the two disputed signatures are not forged (as held by the *Id. Magistrate*) is not necessarily destructive of the workman's plea before me that he is not author of those signatures. It is quite possible that the two signatures are not forged, and yet are not made by the workman. They may have been authored by some third person who might or might not have actually received the two sums from Mehta. So far as the matter before me is concerned, my prime duty is to see and find out whether it is the workman who has authored the two disputed signatures. If I do not find adequate evidence to sustain such a finding, it is not necessary for me to embark on the further inquiry as to who is or are the actual authors of the signatures, or whether Mehta and/or the Bank officers themselves forged or got forged the documents. In this view of the matter, I hold that the orders of the learned Magistrate and the High Court do not jeopardise the case of the workman to any extent. I leave the point with the observation that I also do not suspect that the Bank officers are privy to any forgery.

21. The result of the above discussion shows that the finding of the Enquiry Officer about the guilt of the workman, is not supported by adequate or reliable evidence. It is accordingly set aside. The last question that remains is whether the workman should be

reinstated in service and with what directions, if any, about back wages. There is no good reason to withhold reinstatement or full back wages. The workman has remained out of employment throughout the crucial period. There is nothing on the record to suggest that he had any alternative source of income. I will therefore direct his reinstatement with full back wages. He had to engage two Advocates. Obviously the cost of this litigation is substantial. I quantify the costs at Rs. 2500/-.

22. The order of dismissal of the workman is hereby set aside. The Bank is directed to reinstate him in service with full back wages. The payments made to him by way of subsistence allowance, if any, shall of course be adjusted towards his dues. The Bank shall pay him costs, which I quantify at Rs. 2500/-. The Bank shall carry out these directions within two months of the date on which the award becomes effective. The Bank shall bear their own costs. Award accordingly

S. N. KHATRI, Presiding Officer
[No. L-12012/86/87-D.II(A)]

का. प्र. 2324—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक आफ इंडिया के प्रबन्धसूचक के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 2324.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, KANPUR as shown in the Annexure in the Industrial dispute between the employers in relation to the A Central Bank of India and their workmen, which was received by the Central Government

ANNEXURE

BEFORE SHRI ARJAN DEV PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, PANDU NAGAR, KANPUR.

Industrial Disputes No. 121 of 1988

In the matter of dispute between

Shri Chandra Lal
C/o Sh. Girish Bharti

Vice President UP State Committee of AITUC
30A Jatwara Near Alakhnath Temple
Bareilly.

AND

The Regional Manager
Central Bank of India
88 B Civil Lines Bareilly

AWARD

1. The Central Government, Ministry of Labour, vide its notification no. L-12012/827/87-D-II(A)

dt. 22nd Sept., 1988, has referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Central Bank of India in terminating the services of Shri Chandra Pal and not considering him for further employment while recruiting fresh hands under Sec. 25H of the I D Act. is justified? If not to what relief the concerned workman is entitled?

2. The workman's case in short is that he was appointed on a daily wage of Rs. 10/- at Kutubkhana Branch of the bank on 8-10-84. He served the bank in the said capacity till the afternoon of 7-12-85. During the said period he was also assigned the duties of a peon at Shyamganj Branch of the Bank. He was not paid wages for rest days when under law he was entitled to a rest day after working for 6 days continuously. When he made a request for payments of prescribed wages of sub staff, instead of meeting his said just demand his services were terminating illegally without notice or pay and retrenchment compensation. Thus while terminating his services, mandatory provisions of Sec. 25F I.D. Act were not complied with by the management.

3. In fact on the basis of length of service, he was entitled to regularisation of his services. After his exit the management have been employing persons at both the branches. However, in order to frustrate the object of sec. 25H I.D. Act, no mustor is maintained by bank with regard to them. After the terminating of his services he has been employed all along. He has, therefore, prayed for his reinstatement with full back wages.

4. The case is contested by the management. The management plead that the reference order is bad in law as while making reference, the Central Govt., formed an opinion on extraneous circumstances. The management deny that he was engaged as a peon. In fact he was engaged as a casual labour on a daily wage of Rs. 10/-. He had worked for 151 days at Bareilly Branch of the Bank and for 71 days at Shyamganj Branch as per details given at pages 12, 13 and 14 of the W. S. The management dispute the claim of the workman that by virtue of the length of service put in by him he was entitled to regularisation of his services. The bank also deny violations of sec. 25F and 25H I.D. Act. Appointments in bank in sub staff are made by calling names of the candidates from Local Employment Exchange. Such candidates as are declared successful in the written test and interview are recruited in the permanent services of the bank.

5. In his rejoinder, the workman alleges that the reference order is not bad in law. He further alleges that he had worked on the regular post and had performed duties of the regular peon. He was a whole time workman.

6. In support of his case, the workman has filed his own affidavit and some documents. On the

other hand the management have filed the affidavits of Sh. S. N. Goel, Dy Chief Officer (Prs) and Sh. V. K. Puri, Chief Officer (OPR) and some documents.

7. In this case following 3 points arise for determination—

1. Whether the job of a peon or that of a casual labour was taken from the workman on days on which he had worked in the 2 branches of the Central Bank of India, named above?
2. Whether the workman had worked for 240 days or more within a period of 12 months preceding the date of his termination?
3. Whether the management violated the provisions of Sec. 25H I.D. Act?

Point No. 1 :

8. The case set up by the workman is that he had worked in the two branches as a peon. In para 3 of his affidavit dt. 12-9-89, which he tendered in evidence He has given the nature of duties performed by him from duties described by him, it would be safely inferred that according to him he was doing the job of a peon. Thus he has corroborated his case by means of his affidavit.

9. On the other hand, at page 7 of the written statement it has been pleaded by the management that he had been engaged purely as a labourer on daily agreed amount. Again at page 6 it has been pleaded that whenever there arose some labour job, he was asked to do that labour job on agreed amount. The nature of the job has not been described in the written statement any where.

10. The evidence which the management has given is that he had been employed to bring water from outside the premises of the bank on account of shortage/scarcity of water at the two branches.

11 This is what has been deposed to by the two management witnesses namely, S/Sh. Geol and Sh. V. K. Puri. The management have tried to give support to their case from paid vouchers which are Ext. M-1 to Ext. M-8. These paid vouchers show that payments were made to the workman as labour charges. Here again work taken from him for which these labour charges were paid has not been specifically stated in these paid vouchers.

12. Now let us see what case was set up by the management before ALC(C) Dehradun. The workman has filed the copy of reply filed by the management before ALC(C) Dehradun by the management. It is Ext. W-1. Para 7 of the reply is very important. The relevant position of it reads as under :-

In the year 1984-85 Mr. Chandrapal was engaged in the bank by local branch manager, Bareilly branch and Shyamganj Branch, the number of days in all the regular permanent subordinate staff member staff

had gone on leave for the smooth functioning of the branch, the branch manager might have taken the services of Mr. Chander Pal for the day subordinate staff member has gone on leave.....

If the bank does not employ badli workers on leave vacancy in that even the smooth functioning of the branch is effected thereby the customer service is jeopardised. In order to such a contingency Branch Manager employed Badli workers in leave vacancy as and when required.

Prior to the above quoted lines it is found stated in para 7 that whenever there arose a leave vacancy at B.O. Bareilly on account of one of the member of sub-staff going on leave, the Branch Manager asked Mr. Chander Pal or some other person to work in his place on daily wages. From the above facts it becomes crystal clear that duties of a sub staff were taken from the workman when ever a member of sub staff went on leave. No such case that he had been employed for fetching water from outside was set up before ALC(C). Therefore, the case which the management have set up in evidence cannot be relied upon even for moment. The new case seems to have been set up as an after thought with a view to defeat the case of the workman on the point at issue. This is not expected from the management of a Nationalised Bank which is considered as a model employer. The conduct of the officer of the bank responsible for setting up such a false case. For the first time in evidence requires censure.

13. Hence, it is held that job of a peon was taken from the workman on days on which he was employed by the management in the two branches of the bank at Bareilly.

Point No. 1, is decided accordingly.

Point No. 2

14. There is no dispute about the fact that at the branches the workman had worked from 8-10-84 to 7-12-85 with breaks. For deciding this point we will have to take into consideration the period 8-12-84 to 7-12-85

15. There is no satisfactory evidence from the side of the workman to show that he had worked for 240 days or more during the said period of one year. On the other hand in their written statement, the management have specifically stated the periods during which he had worked at the two branches. According to the management he had worked for 151 days at Bareilly Branch and for 71 days at Shyam Ganj Branch. If the period from 8-10-84 to 7-12-84 is taken out then according to the management he had worked for 117 days at Bareilly Branch and 71 days at Shyamganj Branch. The same thing comes out from the documents filed by the workman with the list of documents dt. 26-5-89. The documents are simply copies of document of the management. They corroborate the management's case with regard to number of days he had worked during the period of 1 year in question. Ext. W-2 is the copy of letter dt. 18-7-86 from the management witness Sh. V. K. Puri Branch Manager Shyam Ganj Branch to the Regional Office

(Pers) Bareilly and Ext.W-3, is the copy of letter dt. 28-1-87 from the Branch Manager B O Bareilly to the Div. Office. Ext.W-4 & 5 are copies of letters dt. 19-12-85 from the workman to Branch Managers of the two branches informing the branch manager Shyamganj Branch that he had worked for 86 days during the period 10-12-84 to 8-9-85 and Branch Manager B O Bareilly that he had worked for 168 days in his branch during the period 8-10-84 to 8-12-85. Receipt of this letter is admitted by the management. However, with this letter he has not furnished any details. Therefore, much reliance cannot be placed on the case set up by him with regard to the number of days of his working in the two branches.

16. On 24-5-89 the workman moved an application for summoning of some documents and information and with that he annexed the photostate copy of statement showing the periods during which he had worked, showing in the remarks column dates on which there were Sundays and Holidays. From where he has collected these details is not known.

17. After considering the evidence on record I believe the evidence of the management on the point of number of working days of the workman. It appears from the details given by the management in the written statement as well as in the reply filed before ALCO Dehradun that Sunday/Public Holidays were not taken into account. I may state here that the parties authorised representative did not extend to the Tribunal the desired help with regard to Sundays & Holidays which should also be taken into account for determining the total number of working days of the workman during the period of one year in question. I have made my own effort on the basis of the statement annexed by the workman with his application dt. 24-5-89. It appears that 2 Sundays of 1984 and 14 Sundays of 1985 should be added to the number of actual working days. About public Holidays no definite opinion can be given but still we can add 10 such holidays at the most. The total number of working days will come to 214 days, which is much less than 240 days. Since the workman has been found to have worked for less than 240 days, during the period of one year preceding the date of termination of his services. The provisions of sec. 25F I.D. Act are not attracted. The point is decided accordingly.

Point No. 3 :

18. Sec. 25H I.D. Act will have to be read with Rule 78 of I.D. Central Rules, 1957. On being so read it will be evident that it applies only to the case of a workman who had worked for not less than one year continuously before the date of his retrenchment. Therefore, in his case Sec. 25H read with Rule 78 does not apply. The point no. 3 is decided accordingly.

19. In view of the findings given above, the action of the management of Central Bank of India in terminating the services of Sh. Chander Pal and not considering him for further employment while recruiting fresh hand cannot be held as unjustified? The workman is entitled to no relief.

20. The Reference is answered accordingly.

ARJAN DEV, Presiding Officer.
[No. L-12012/827/87-D.II(A)]

का. आ. 2355 — औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार न्यू बैंक ऑफ इंडिया के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपद का प्रकाशन करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 2325.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial dispute between the employers in relation to the New Bank of India and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, PANDU NAGAR, DEOKI PALACE ROAD, KANPUR

Industrial Dispute No. 114 of 1986

In the matter of dispute between :

The Assistant General Secretary,
UP Bank Employees Union,
36/1, Kailash Mandir, Kanpur.

AND

The Regional Manager,
New Bank of India,
94, MG Marg, Lucknow.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-12012/122/85-D.IV(A) dated 18-8-1986 has referred the following dispute for adjudication to this Tribunal :

Whether the action of the management of New Bank of India in terminating the services of Shri Brijesh Kumar, Ex-temporary peon, New Bank of India, Gumbi No. 5 Branch Kanpur w.e.f. 15-4-1980, is justified and legal? If not, to what relief the concerned workman is entitled?

2. The industrial dispute on behalf of Shri Brijesh Kumar, workman, has been raised by U.P. Bank Employees Union (hereinafter referred to as Union). The case of the workman in short is that after the decision given by the Hon'ble Supreme Court in Sunder Money's case the management of the New Bank of India started the practice of appointing temporary employees for doing work of permanent nature for below 90 days in order to deprive them for becoming regular hands. In accordance with the above practice, the workman was appointed as a peon against a regular vacancy for doing work of a regular nature, but was retrenched on 15-4-1980, after he had worked for 67 days in violation of the provisions of paras 493, 495, 507, 516, 522 and

524 of the Shastri Award, paras 20.7 and 20.8 of the first bipartite settlement and section 19 of U.P. Shops & Commercial Establishment Act and Articles 14, 16 and 31 of the Constitution of India. The Union alleges that at the time of retrenchment, the workman was not the junior most. Further after his retrenchment, fresh hands were recruited without giving any opportunity of employment to the workman. Thus the management violated the provisions of sections 25G and 25H of I.D. Act. While terminating his services he was not given any notice or notice pay and compensation. The management adopted unfair labour practice so far as the workman was concerned. The Union has therefore prayed that the action of the management be declared as illegal and unjustified. The Union has further prayed that the workman be reinstated in service with full back wages.

3. In defence the management plead that dispute raised is highly belated and as such the reference order is liable to be rejected on this count. The management deny that they had in any way circumvented the decision of the Hon'ble Supreme Court given in the case of Sunder Money. In the said case, the Hon'ble Supreme Court even did not grant the benefit of permanent employment to the temporary employee. The Hon'ble S.C. only decided that in case the services of an employee who has completed 240 days of service are terminated, he has to be paid retrenchment compensation in accordance with law. In fact Shri Brijesh Kumar had worked only for 44 days work in the bank, for one day in October, 1979, 2 days in November 1979, 10 days in January 1980, 12 days in March 1980 and 19 days in April 1980. He was appointed temporarily out of exigency of work. His appointment was for fixed period and ended with efflux of time. The workman was never appointed against a permanent vacancy. The workman having not worked for 240 days, there was no question of his retrenchment as he had only worked as a temporary peon for 44 days. The management deny any violation on their part of section 25F, 25G and 25H I.D. Act. The management also deny that they had indulged in any unfair labour practice. Thus according to the management, the workman has no case at all.

4. In the rejoinder, it is alleged by the Union, that the law of limitation does not apply to industrial disputes. In support of their case, the management have filed the affidavit of Shri N. K. Grover, officiating Manager of Gumti No. 5 Branch Kanpur, with documents. On the other hand in support of his case, the Union has not lead any evidence despite affording of several opportunities. On 4-12-87, the evidence of the management witness was concluded. On 6-1-1988, the Union's application dated 4-12-1987 was decided. The Union then applied for review of the said order but the said application was rejected on 30-6-1989. On 1-8-1989, 8-9-1989 was fixed for affidavit evidence of the Union. Thereafter, till 1-6-1990 no affidavit evidence was filed by the Union despite issue of notice to the workman as well as to the Union. I may state here that on 11-10-1989, Shri Brijesh Kumar, workman was present in the Court. On 1-12-1989, Shri V. N.

Sekharia, the authorised representative for the Union withdrew his authority. By means of his affidavit the management witness Shri N. K. Grover, has proved the case set up by the management in the written statement. In para 2 of his affidavit he has given a table given the dates and the number of days on which the workman had worked and in whose vacancy he had worked as temporary peon. In support of his statement, he has filed copies of salary bills and copies of attendance register. He was cross examined at length by Shri Sekhari but he could not extract any thing from him which could be said as favourable to the cause of the workman. In his cross examination the management witness has deposed that he had brought with him the originals of the documents filed by him with his affidavit. He has also deposed that on 4-12-1987, i.e. the date on which he was cross examined, in Gumti No. 5 Branch of the Bank no temporary hand in the sub staff cadre was working. He even denied that Shri Brijesh Kumar workman was working as a Water Boy on daily wages in the said branch.

5. Thus we have evidence from the side of the management that the workman had worked for 44 days during the period October, 1979 to April 1980. As against it there is absolutely no evidence to prove that Shri Brijesh Kumar workman had worked for 67 days. It is important to note that in the claim statement, the date of appointment of Shri Brijesh Kumar is not given. It was only in pursuance of the order dated 6-1-1988 that Shri Sekhari furnished information in writing on 29-9-1988 that he had worked as a temporary peon during the period 22-10-1979 to 15-4-1980. It means that he had worked in broken periods i.e. intermittently. For how many days he continuously worked during the last leg of his working has no where been given by the Union. But from the management's evidence it appears that in the last month i.e. in April 1980 he had worked for 19 days.

6. Even if it be believed that he had worked for 67 days, the question of violation of section 25F does not arise. In other words he was not entitled to any notice or notice pay and retrenchment compensation.

7. Violation of section 25G and 25H I.D. Act have also been alleged. It is not mentioned in the claim statement or in the rejoinder as to who was junior to Shri Brijesh Kumar at the time of termination of his services. Even in the application dated 29-9-1989, by means of which information has demanded by means of order dated 6-1-1988 was being given it was not stated as to who was the person who was junior to Shri Brijesh Kumar at the time of termination of his services. Hence, the question of violation of section 25G I.D. Act does not arise.

8. Section 25H I.D. Act has no application to the facts of the present case as this section when read with Rule 78 of I.D. Central Rules 1967, will apply only to such workmen who had been in continuous service for not less than one year before the termination of their services. So there was no violation of even sec. 25H I.D. Act. In view of the above evidence and findings it is held that the action of the manage-

ment of New Bank of India in terminating the services of Shri Brijesh Kumar temporary Prou Gunti No. 5 Branch, Kanpur, w.e.f. 15-4-1980 is justified and legal.

9. Hence, he is entitled to no relief.

10. The reference is answered accordingly.

ARJAN DEV, Presiding Officer
[No. L-12012/122/85-D.IV(A)]

नई दिल्ली 1 सितम्बर, 1990

का. अ. 2326-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार, मैजर्स भारत कोकिंग कोल लि. की. मधुबन डीजल जनरेटर स्टेशन / पावर प्लांट प्रोजेक्ट के प्रबंधन से सम्बद्ध निवाजकों और उनके कार्यकारियों के बीच, अनुबंधक में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम (सं. 2) धनबाद के पंचसद को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-8-1990 का प्राप्त हुआ था।

New Delhi, the 1st September, 1990

S.O. 2326.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No.2): Dhanbad as shown in the Annexure in the industrial disputes between the employers in relation to the management of Madhuban Diesel Generator Station/Power Plant Project of BCCL and their workmen, which was received by the Central Government on the 7-8-90.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 262 of 1986

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947.

PARTIES :

Employers in relation to the management of Madhuban Diesel Generation Station/ Powder Plant Project of M/s. Bharat Coking Coal Limited and their workmen.

APPEARANCES :

On behalf of the workmen.—Shri J. P. Singh, Advocate.

On behalf of the employers.—Shri B. Joshi, Advocate.

STATE : Bihar

INDUSTRY : Coal.

Dated, Dhanbad, the 30th July, 1990

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(93)/86-D. III(A), dated the 24th July, 1986.

SCHEDULE

"Whether the demand of Reshriya Colliery Mazdoor Sangh that the management of Madhuban Diesel Power Station/Power Plant Project in Block No. II Area of M/s. Bharat Coking Coal Limited should regularise the services of Shri Gangadhar Diggar as General Mazdoor in Category-I is justified. If so, to what relief is he entitled?"

The case of the workmen is that the concerned workman Shri Gangadhar Diggar has been working in Madhuban Diesel Power Station in Block No. II Area of M/s. BCCL since 1975. M/s. BCCL took over the management of D. G. Project in 1978 after completion of its construction work by M/s. H.S.C.L. which had been given contract for construction of the said diesel power station. It is stated on behalf of the workmen that all the workmen who were working during the time of the construction of the diesel power station are deemed to have been taken in the service of BCCL from the date of take over of the power station in 1978. The D. G. Project Engineer had recommended the 2 applications of the concerned workman for his regularisation. Since 1981 the concerned workman is continuously working in Cat. I although no payment of the wages of Cat. I. The plea of the management during the conciliation proceeding was that the concerned workmen was never in the employment of BCCL is totally false and baseless. As the concerned workman has been working as General Mazdoor there is a relationship of employer and employee between M/s. BCCL and the concerned workman. Shri G. N. Mahanty, Executive Engineer of the power plant had issued a certificate dated 28-9-85 showing that the concerned workman was working regularly in the plant before posting of general mazdoor in the said plant and that the concerned workman was further utilised as general mazdoor from 1981, even after posting as General Mazdoor in the plant, for the various jobs mentioned in the certificate issued by Sri G. N. Mahanty, Executive Engineer of the power plant. The concerned workman was paid from the imprest found for his employment. As the concerned workman was working in the plant he was issued with several medical slips for his treatment and the treatment of the members of his family a management cost. The concerned workman was also provided with quarter in front of the power plant gate constructed by the management along with the family members since beginning of the construction of the said power plant. The concerned workman is supplied free electricity, water etc. in the said quarter by the management. The

management although taking work from the concerned workman did not keep him on the regular roll and his wages were not paid through payment sheet and was paid from imprest fund. The RCMS which is the recognised union functioning in the Coalfield raised an industrial dispute in respect of the concerned workman before the ALC (C), Dhanbad, when the management did not regularise the concerned workman in the permanent job. The ALC (C), Dhanbad held conciliation proceeding which ended in failure and thereafter the present reference has been made to this Tribunal for adjudication. On the above facts it is prayed that the concerned workman be regularised as General Mazdoor in Category-I and should be paid all the benefits under NOWA-I, II and III.

The case of the management is that the concerned person Shri Gangadhar Diggar was never an employee of M/s. BCCL and as such there was no relationship of employer and employee between them. The question of regularisation arises in respect of "Casual", "Temporary" or "Badli" workman working against any permanent vacancy. In case of a non-workman the question of regularisation does not arise and as such the present reference is not legally maintainable. The Diesel Generating Power Plant was constructed by M/s. H. S. C. L. between the period 1975 to 1978 and was handed over to the present management of POCL in 1978. The management employed its own workers and staff for operation and maintenance of power plant. The concerned person was never employed by the management in any capacity and as such he did not work in power plant from 1973 onwards. As the concerned workman was never employed by the management and as such there was no question of payment of wages to him on the basis of voucher. There was no stipulation of any kind to employer the workman of M/s. H. S. C. L. which completed the construction of the diesel power plant in 1978, even if the concerned person had worked in 1975 at Madhuban Diesel Power Plant during such of construction by M/s. H. S. C. L. The management is not at all responsible for giving employment to the concerned person after diesel power plant was taken over by M/s. BCCL in 1978. It is not correct to suggest that the concerned person was continuously working in Cat. I since 1981 and he was engaged by the management from 1981 without making any payment. Each and every workman employed by management is paid his wages as per provision of the Payment of Wages Act and as the concerned person did not work during any period, he was not paid any wages. On the above facts it is prayed on behalf of the management that the Award be passed holding that the concerned person is not entitled to any relief.

The only point to be decided in this case is whether the concerned workman is entitled for his regularisation as General Mazdoor in Cat. I.

The workman examined three witnesses and the management examined one witness in support of

their respective case. The documents of the workmen are marked Ext. W-1 to W-4. No document has been marked on behalf of the management.

The dispute that the concerned workman had never worked in Madhuban diesel power station, power plant project in the Block No. II area of M/s. BCCL and that he had never received any wages does not find support from the evidence adduced in the case. WW-1 is the concerned workman Gangadhar Diggar. He has clearly stated that since 1977 he was employed to work in Madhuban power station in Block No. II Area of M/s. BCCL as Mazdoor and since then he is regularly working as Mazdoor in the said power station. He has stated about the work being performed by him in the said diesel power station. He has stated that he unloads diesel from the trucks and fills diesel in the tank. He has stated that he also unloads the stores materials and stores it in the store. He says that he also used to clear the bushes and the plants below the overhead electric line and he also cleans surface in the machine room. This assertion of work being performed by him is supported by W-2 B. B. Diwan who is presently working as Asstt. Foreman in Madhuban Diesel Power Station of M/s. BCCL. He has stated that the concerned workman is working in Madhuban diesel power station since 1975. He has stated about the duties being performed by the concerned workman in diesel power station. He has supported WW-1 by stating that the concerned workman used to unload the diesel drums from trucks and store it in the power house, he was dewatering trenches in power station. He has stated that he was also working as Helper in oiling cleaning machine when WW-2 was appointed as Fitter in 1975. According to him the concerned workman was paid through vouchers. He has stated that the concerned workman was provided with a quarter for his residence and was getting his medical treatment from the colliery dispensary in which the workmen of Madhuban diesel power station were getting their medical treatment. He has stated that the concerned workman has not been paid the wages of Cat. I. It will appear from the evidence of WW-2 that the Madhuban Power Station was constructed by H. S. C. L. and that in July, 1977 H.S.C.L. gave charge of Madhuban diesel power station to BCCL. He has been prompted as Asstt. Foreman in 1985 and appears to be a responsible person. He has clearly stated that BCCL did not take in employment any of the workmen working in the construction of the power station by H. S. C. L. it will appear from his evidence that about 6 of the employees of BCCL were working in the power station during its construction phase also besides the concerned workman who alone was working as a labour along with them, during 1977 to 1982. WW-3 is mainly a witness who has proved and exhibited a certificate Ext. W-1 granted by Shri G. S. Mahanty, Executive Engineer, D. G. Power Plant Madhuban and the medical slips Ext. W-2 to Ext. W-2/15 issued by the doctors showing that the workman and his family members were treated in the colliery hospital of Barora hospital. It will appear

from his cross-examination that WW-3 was able to identify the signature of Dr. Vijay on Ext. W-2 to Ext. W-2/5 and that he did not identify the signature on the other medical slips. However, the medical slips produced by the workman is not denied to have been issued to the concerned workman for his treatment and the treatment of his family members. Now it is admitted by the management that the concerned workman had casually worked in the power station. This witness W-3 has also stated that in 1975 he was transferred to D.G. power project and at that time the concerned workman was engaged as a Water boy but had not been given any appointment letter. He has further stated that in 1983 the concerned workman was working as Water Boy and thereafter he is working as Helper. He has stated that the concerned workman does not get the wages of helper and that Shri A. K. Sinha, Executive Engineer used to pay the wages to the concerned workman. More important is the evidence of management's own witness MW-1 and MW-2 on the point whether the concerned workman was working in the D.G. Plant of the management. MW-1 who is working as Asst. Storekeeper at Madhuban DG Station from 1978 has stated that they used to get diesel in drums brought on trucks from the Indian Oil Corporation, Dhanbad and that the diesel used to be fed in the generators from the drums through pipe. He has stated that the diesel drum used to be placed near the generator 1 to 3 times per month and for doing that job some of the labourers used to come from Madhuban colliery and some from outside. He has stated that the persons who used to be engaged from outside were paid on vouchers by the management. He has stated that the concerned workman is occupying a quarter which had been constructed by M/s. H.S.C.L. Towards the close of examination-in-chief MW-1 has clearly stated that he is regularly seeing the concerned workman working in the D.G. Power Station. In cross-examination MW-1 has stated that he knows the concerned workman since 1978 and has seen the concerned workman working in the D.G. Plant since then. He has stated that the concerned workman used to place the drums and used to provide water to the staff for drinking. According to him the concerned workman also used to bring tea for the staff and used to sweep the floor of the plant when there was no sweeper. He has stated that the management provided a Sweeper in the plant from 1933 but the concerned workman is still working continuously. He has stated that all the payments which are made as wages to the workers are entered in the relevant registers of the company and that there is Accounts Section and Pay Section in the D.G. Plant but the management has not produced any register of accounts to show that the concerned workman had never been paid wages for his employment in the power station. It will also appear from his evidence that the quarter being occupied by the concerned workman was taken over B.C.C.L. after M/s. H.S.C.L. handed over the plant and the quarters after completing the construction. MW-2 is working as Executive Engineer in D. G. Plant since 1982. He has stated that he had no concern with the D.G. Project prior to 1982 and has also no concern with the payment of wages to the

persons working in the plant. The management's officer MW-2 had atlast to admit that the concerned workman had occasionally been engaged and he had seen him working in the plant till the end of December, 1983. He has also admitted that the concerned workman is still residing in the temporary shed which had been constructed by M/s. H.S.C.L. He has admitted that the shed occupied by the concerned workman has electricity which is supplied by Madhuban colliery of the management. He has stated that he did not take any step for the eviction of the concerned workmen. Thus the evidence of the management itself revealed in the veiled shape about the fact that the concerned workmen did work in Madhuban D.G. Power Station although the management had completely denied the engagement of the concerned workman in the power plant and the payment of wages for his employment.

More eloquent are the documentary evidence in the case which speak of the fact supporting the case of the workman that the concerned workman is in fact working regularly in the D.G. Power Station in Madhuban. Ext. W1 is the certificate granted by Shri G. N. Mahanty, Executive Engineer of D. G. Power Station, Madhuban. He has stated that the concerned workman Shri Gangadhar Diggar a labourer residing in front of D.G. Station is well known to him as he was regularly utilised by him for various day to day work of D.G. Power Station before posting of the General Mazdoor. He has further stated in Ext. W-1 dated 28-9-85 that even after posting of General Mazdoor the concerned workman was still doing a few works since 1984 and has stated six jobs being performed by the concerned workman. He has stated that the concerned workman is doing (1) collection of leakage H.S.D. from tranches, (2) Dewatering of mechanical tranches, (3) cleaning of D.G. Power Station campus and colony, (4) Loading and unloading of diesel and lub. oil, (5) Loading and unloading of materials and (6) Supply of drinking water in office and D.G. Plant. He has further stated that the concerned workman was paid from the imprest amount. Thus the certificate granted by Shri G.N. Mahanty who was the Executive Engineer of the plant clearly shows that the concerned workman was regularly employed in Madhuban D.G. Power Station and was paid for his work from the imprest amount. Ext W-4 is an application filed by the concerned workman before the Personnel Manager, Block, No II, Area praying for employment as he was working since the starting of the civil construction at D.G. Station Madhuban and that he was still working as casual labour in D.G. and Power Project Madhuban. This certificate bears the note of the Station Incharge of D.G. Station Madhuban showing that the applicant (concerned workman) was working under different contractors at the time of construction of D.G. Station and he has been engaged from time to time in the plant for general mazdoor type of work. He recommended for consideration of the case for employment of the concerned workman. It is clear from the evidence discussed that the concerned workman was regularly engaged as a labourer since the very start of the D.G. plant station and he was paid from the imprest account. Admittedly the concerned workman was not treated as

regular employees and was not brought on the regular roll of the company but nonetheless it is evident that the concerned workman had been employed regularly as a labourer who was entitled to the wages of Cat. 1 but was paid less from the imprest amount. The recommendation and certificates of the management's officers itself establish that the concerned workman had regularly worked in Madhuban D.G. Plant of the management and as such it cannot be said that there was no relationship of employer-employee between the management and the concerned workman, concerned workman would not have been treated as a workman if in fact he had not ever been employed by the management as was being asserted in the W.S. of the management. The assertion of the management that the concerned workman had never been engaged and never been paid wages by the management has clearly been falsified by their own management's witness and the documents which have been produced on the record.

Ext. W-3 dated 14-1-82 is a representation by Shri Jogeswar Yadav Secretary of R.C.M.S. Union of D.G. Project, Madhuban. It will appear from the said representation of the Secretary of the R.C.M.S. to the Dy. Chief Engineer, E & M, D.G. Project that he had made a demand for regularisation of the concerned workman Shri Gangadhar Diggur and Shankar Hari and others. It will appear from the evidence of WW-1 that Shankar Hari was working along with him in Madhuban Diesel Power Station and was doing the same job as was being performed by the concerned workman, WW-1 has stated that Shankar Hari and also demanded regularisation which was refused by the management and a dispute was raised before the ALC(C), Dhanbad and thereafter he was regularised, but the concerned workman has not been regularised as yet. The demand made by the Secretary in the year 1982 for regularising the concerned workman and others shows that the matter of regularisation of the concerned workman cropped up only when the dispute was raised before the ALC(C) and on failure report the case was referred to this Tribunal. The dispute for regularisation was being raised from 1982 and the evidence adduced in the case has established that the concerned workman was regularly employed by the management of Madhuban D.G. Plant and as such the concerned workman deserves to be regularised as he has worked since more than 10 years from now. I hold therefore that the concerned workman is entitled for his regularisation as General Mazdoor in Cat. I.

In the result, I hold that the demand of R.C.M.S. that the management of Madhuban Diesel Power Station Power Plant Project in Block No. II Area of M/s. BCCL should regularise the services of the concerned workman Shri Gangadhar Diggur as General Mazdoor in Category I is justified. The management is directed to regularise the concerned workman in Cat. I and should pay him the wages of Category I with effect from the date of present reference i.e. 24th July, 1986 within one month from the date of publication of the Award.

I. N. SINHA, Presiding Officer

[No. L-20012/93/86-D.III(A)[IR(Coal-I)]]

V. K. VENUGOPALAN, Desk Officer

नई दिल्ली, 17 अगस्त, 1990

का. आ. 2327.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सैनस भारत कोकिंग कोल लिमिटेड की तेलुमारी कोलियरी के प्रबन्धन से सम्बद्ध विवादों और उनके कर्मचारों के बीच अनुव्र में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2) धनबाद के पंचपट को प्रकाशित करता है, जो केन्द्रीय सरकार को 6-8-1990 का प्राप्त हुआ था।

New Delhi, the 17th August, 1990

S.O. 2327.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of tetulnari Colliery of M/s. Bharat Coking Coal Limited and their workmen, which was received by the Central Government on the 6-8-90.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD.
REFERENCE NO. 42 OF 1985

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

PARTIES :

Employers in relation to the management of Tetulnari Colliery of Messrs. Bharat Coking Coal Limited and their workmen.

APPEARANCES :

On behalf of the workman : Shri S. Bose, Secretary, R.C.M.S. Dhanbad.

On behalf of the employers : Shri G. Prasad, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 30th July, 1990.

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (382)/84-D.III(A), dated, the 22nd April, 1985.

SCHEDULE

"Whether the demand of Rashtriya Colliery Mazdoor Sangh that Shri Dattu Kumhar of Tetulnari Colliery of Messrs. Bharat Coking Coal Limited, Post Office Sijua, District Dhanbad should be placed in Technical and Supervisory Grade 'B' with effect from 15-5-1982 and designated as Field Supervisor is justified? If so, to what relief this workman is entitled?"

In this case both the parties appeared and filed their respective W.S. documents. Thereafter the case proceeding along its course. Subsequently when the

case was fixed for evidence of parties both the parties appeared and filed a Joint Petition of compromise. I heard them on the said petition of compromise and I do find that the terms contained therein are fair, proper and beneficial to both the parties. Accordingly I accept the same and pass an Award in terms of Joint Compromise petition which forms part of the Award as annexure.

I. N. SINHA, Presiding Officer
[No. L-20012/382/84-D.III(A)|IR (Coal-I)]

ANNEXURE

BEFORE THE HON'BLE PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. II DHANBAD.

Ref. No. 42/85

Employers in relation to the management of
Tetulmari Colliery M/s. Bharat Coking
Coal Ltd.

AND

Their workman

The humble joint petition of compromise on
behalf of the parties most respectfully
sheweth :-

1. That, the Government of India, Ministry of Labour, New Delhi by a notification No. L-20012-(382)/84.D.IIIA dated 22nd April 1985 has referred the following Industrial dispute U/S 10(1)(d)(2A) of the Industrial disputes Act, 1947, hereinafter referred to as the Act, for an adjudication to this Hon'ble Tribunal.

SCHEDULE

"Whether the demand of Rashtriya Colliery Mazdoor Sangh that Shri Dallu Kumhar of Tetulmari Colliery of M/s Bharat Coking Coal Ltd. P.O. Sinna, Distt. Dhanbad should be placed in Technical and Supervisory 'Gr. 'B' with effect from 15-5-82 and designated as field supervisor is justified? If so, to what relief the workmen is entitled?"

That commonsense having prevailed the parties have mutually discussed the issue outside the court and have compromised the instant Industrial dispute on the following terms and conditions.

TERMS OF SETTLEMENT

1. That it was agreed to place Shri Dallu Kumhar in Tech. & Supervisory Gr. 'C' as asstt. Foreman (Unqualified) and next will be treated as ex-cadre with effect from 1-1-1987

2. That, Shri Dallu Kumhar shall be paid the difference of wages and or other benefits if any for the period from 1-1-1987 till the date of this settlement.

3. That, this settlement settles all the disputes between the parties and the workmen concerned shall have no claim whatsoever

4. That, the settlement is fair and proper.

5. That, it was also agreed that a joint petition of compromise should be filed before the Hon'ble Tri-

bunal and the Hon'ble Tribunal should be requested to pass an Award in terms of the settlement.

It is, therefore, prayed that your honour may be graciously pleased to accept the settlement and pass an award in terms of the settlement and for this act of kindness the parties shall ever pray.
Representing workmen

(1) Sd/-

(2) Sd/-

Witness :

Representing employer

(1) Sd/-

(2) Sd/-

Advocate.

Presiding Officer

Central Govt Industrial Tribunal (No. 2)
DHANBAD

का. आ. 2328.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स भारत कोकिंग कोल लि., का कुलुण्डा क्षेत्र सं. 6 के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 1) धनबाद के पंचपट को प्रकाशित करती है ?

S.O. 2328.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of kusunder Area No. VI of M/s. Bharat Coking Coal Limited and their workmen which was received by the Central Government

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. I DHANBAD

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 40 of 1988

PARTIES

Employers in relation to the management of
Industry Colliery of M/s. B.C.C. Ltd.,
Kusunda Area.

AND

Their Workmen.

APPEARANCES :

For the Employers.—Shri G. Grasat, Advocate.

For the Workmen : Shri B. N. Sharma, Joint
General Secretary, Janta Mazdoor Sangh.

STATE : BIHAR.

INDUSTRY : Coal.

Dated, the 2nd July, 1990

AWARD

The present reference arises out of Order No. L-20012/183/87-D.3(A), dated 'nil', passed by the Central Government in respect of an industrial dispute between the parties mentioned above. The

subject matter of the dispute has been specified in the schedule to the order and the schedule runs as follows :

"Whether the action of the management of Industry Colliery of Kusunda Area of M/s. Bharat Coking Coal Ltd. in reverting Shri Y. P. Singh and three others, Clerk Grade I of Industry Colliery to Clerk Gr. II is justified ? If so to what relief the workmen are entitled to ?"

2. The dispute has been settled out of Court. A memorandum of settlement has been filed in Court. I have gone through the terms of settlement and I find them quite fair and reasonable. There is no reason why an award should not be made on the basis of terms and conditions laid down in the memorandum of settlement. I accept it and make an award accordingly. The memorandum of settlement shall form part of the award.

3. Let a copy of this award be sent to the Ministry as required under Section 15 of the Industrial Disputes Act, 1947.

S. K. MITRA, Presiding Officer

No. L-20012/183/87-D.III(A)/IR (Coal-I)

K. J. DYVA PRASAD, Desk Officer

BEFORE THE PRESIDING OFFICER, CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL
NO. I

DHANBAD

Ref. No. 40/88

Employers in relation to the Management of
Industry Colliery of M/s. Bharat Coking
Coal Limited.

AND

Their workmen

The humble joint petition of compromise on behalf of the parties most respectfully sheweth :—

1. That, the Central Government, Ministry of Labour New Delhi by a notification No. L-20012 dated has referred instant industrial dispute for an adjudication u/s. 10(1)(d)(2A) of the Industrial Disputes Act, 1947, to this Hon'ble Tribunal.

The term of reference is reproduced below :—

"Whether the action of the management of Industry Colliery of Kusunda Area of M/s. Bharat Coking Coal Ltd. in reverting Shri Y. P. Singh and three other clerks, Grade-II is justified ? If not, to what relief the workmen are entitled to ?"

2. That, the parties to the dispute discussed the matter in the Joint Committee held on 24-3-90, and have settled the aforesaid dispute on the following terms and conditions :—

TERMS AND CONDITIONS

(i) It was agreed that for the purpose of promotion in respect of the concerned employees, the date on which they have assumed the higher assignment pursuant to the

Office Order bearing No. A.6/P-4 (Promotion) Cl. Gr. II:88:1669 of 29-6-1988 will be treated as the date of entry in clerical Gr.I.

(ii) As a gesture of goodwill and with a view to maintain harmonious industrial relations, it is agreed that there will be no realisation/deduction from the concerned workmen on account of their promotion from 1-4-1983 on erroneous principle/norms.

(iii) It was agreed that the concerned workmen will be fixed in the pay scale of clerical Gr. I as on 1-7-1989 taking the basis of their promotion as from 29-6-88. It was further agreed that in view of the fact the concerned workmen have been drawing the basic salary higher than what they were entitled to on the date of promotion with effect from 29-6-88, additional amount paid in pursuance of the earlier order will not be deducted. They will be fixed at the nearest point of Clerical Grade-I and even after that if the amount is left over, based on what they have been drawing as on 1-7-89, will be treated as Personal Pay which will be absorbed in the next increment due as on 1-7-1990.

(iv) As regards the case of Sri Y. P. Singh, he will be deemed to have been promoted with effect from 1-4-1983 in view of the fact that Sri Y. P. Singh although designated as Clerk, Grade-III, had been discharging the duty of Clerk, Gr. II and was getting the difference of wages between Grade-III to Grade-II from 1973.

(v) Sri Lakshman Singh will be upgraded to Clerical Gr. I w.e.f. 1-7-1989. His upgradation will, however, be treated as promotion for the purpose of pay fixation etc.

3. That it was agreed that copies of the settlement may be filed before the Hon'ble Tribunal and the Hon'ble Tribunal may be requested to pass an award in terms of the settlement.

4. That, the settlement is fair and proper and it resolves the all disputes between the parties with respect to the aforesaid reference and the workmen concerned shall have no claim whatsoever.

5. That, the settlement is fair and proper.

It is, therefore, prayed that your honour may graciously be pleased to pass an award in terms of the settlement.

And for this act of kindness the parties, as in duty bound, shall ever pray.

Representing workmen. Representing Management

Sd/-
Sd/-

Sd/-
Sd/-

Advocate

Sd/-
Sd/-

Part of the Award.
Sd/-
(Stamp Illegible)